

MARINERS LAW(Procedures of Formulating Working Regulations)

## Article 98

The shipowner or the juridical person provided for in the preceding Article, paragraph 3 cannot make or alter the working regulations without giving a hearing to a labor union, if there is any that is organized by more than half of the mariners in the employ of the shipowner to whom the working regulations apply, or to the representatives of more than half of such mariners, if there is no labor union organized by more than half of the mariners.

(Supervision Over Working Regulations)

## Article 99

The competent authorities may order alteration of the working regulations containing elements which are in conflict with laws, ordinances or collective agreements.

The competent authorities may, if they deem the working regulations to be inappropriate, order alteration thereof with the resolution of the Mariners' Labor Commission.

(Effect of Working Regulations)

## Article 100

Such portion of a contract of engagement as contains provision for working conditions falling short of the standard fixed in the working regulations, shall be invalidated. In such case the contract shall, in respect of the portion thus invalidated, be deemed to contain provision for working conditions coming up to the standard fixed in the working regulations.

CHAPTER XII

## SUPERVISION

(Competent Authorities)

## Article 101

The competent authorities may, if they consider that some act of a shipowner or a mariner is in conflict with this Law, the Labor Standards Law (only the portions applying to mariners' labor relations: the same applying correspondingly to the following articles) or ordinances issued under this Law, deal with the shipowner or the mariner in such a manner as they may necessary.

## Article 102

The competent authorities may exercise their good offices to settle troubles concerning labor relations (except the labor disputes provided for in Article 6 of the Labor Relations Adjustment Law) between the shipowner and the mariners.



MARINERS LAW(Business of Competent Authorities  
In Foreign Countries)

## Article 103

The business which the competent authorities are required by this Law to discharge shall, under the provisions of Ordinance, be conducted by Japanese consuls in foreign countries.

(Mayors and Headmen of Towns And Villages  
Undertaking Business of Competent Authorities)

## Article 104

The competent Minister may cause the mayor of a city, or the headman of a town or a village to undertake the business which the competent authorities are required by this Law to discharge.

(Mariners' Labor Inspectors)

## Article 105

The competent Minister shall appoint Mariners' Labor Inspectors from among his subordinate officials and cause them to control matters connected with the enforcement of this Law and the Labor Standards Law.

## Article 106

The Mariners' Labor Inspector may, if he deems necessary, warn or urge shipowners or mariners to observance of this Law, the Labor Standards Law and ordinances issued under this Law.

## Article 107

The Mariners' Labor Inspector may, if he deems necessary, make a search of the vessel or any other place of work or may order shipowners or mariners to call or produce books and documents or to make reports or may ask questions of such persons.

The Mariners' Labor Inspector may, if he deems necessary, ask questions of a passenger or any other person on board the vessel.

In the cases contemplated in the two preceding paragraphs, the Mariners' Labor Inspector shall carry with him an identification card testifying to his official status.

## Article 108

The Mariners' Labor Inspector shall exercise the judicial police powers provided for in the Code of Criminal Procedure in respect of offences under this Law and the Labor Standards Law.

## Article 109

The Mariners' Labor Inspector shall not break any secrets that he has learned in the performance of his duties. The same shall also apply in the case where he has left his office as a Mariners' Labor Inspector.



MARINERS LAW(Powers of Mariners' Labor Commission)

## Article 110

The Mariners' Labor Commission shall, in addition to the exercise of the powers provided for in the Labor Union Law, investigate and deliberate, in response to request from the competent authorities, matters connected with the enforcement or revision of this Law and the Labor Standards Law.

The Mariners' Labor Commission may present the competent authorities a recommendation concerning the mariners' working conditions.

(Matters to Be Reported)

## Article 111

The shipowner shall, in accordance with the provisions of ordinance, present a report to the competent authorities on the following particulars:

1. Number of mariners in his employ;
2. State in which salary, wages, or other remunerations are paid;
3. State in which compensations are made for accidents;
4. Other matters provided for in ordinances.

(Complaints of Mariners)

## Article 112

If there is any fact which is in conflict with this Law, the Labor Standards Law or ordinances issued under this Law, a mariner may, in accordance with the provisions of ordinance, lodge a complaint respecting the fact with the competent authorities, the Mariners' Labor Inspector or the Mariners' Labor Commission.

The shipowner shall not discharge a mariner or give him any other disadvantageous treatment because of the mariner's lodging the complaint mentioned in the preceding paragraph.

CHAPTER XIII

## MISCELLANEOUS PROVISIONS

(Notification of Working Regulations Etc.)

## Article 113

The shipowner shall post at some noticeable place on board the vessel the documents containing this Law, the Labor Standards Law, the ordinances issued under this Law, the collective agreements and the working regulations or keep such documents on board the vessel.



MARINERS LAW(Adjustment of Remunerations,  
Compensations and Allowances)

## Article 114

In regard to the period during which the shipowner is required to pay at the same time any two or more out of salary, wages or other remuneration, unemployment allowance, repatriation allowance or injury or sickness allowance, it shall suffice for him to pay any one whose amount is the largest of them all.

If, in the case where the shipowner is required to pay salary, wages or other remuneration, he is to pay either discharge allowance or convalescence allowance he shall be relieved of his liability for such discharge allowance or convalescence allowance to the extent of his payment of such salary, wages or other remuneration.

(Prohibition of Transfer or Attachment)

## Article 115

The right to receive the unemployment allowance, discharge allowance, repatriation expense or the compensation for accident shall be inalienable and shall not be liable to attachment. The same shall apply to the right to receive salary, wages or other remuneration (within the limit of the amount of the injury or sickness allowance) during the period in which the salary, wages or other remuneration and the injury or sickness allowance are to be paid at the same time.

(Payment of Penalty)

## Article 116

In cases where the shipowner has committed any offence under Articles 45 to 47 inclusive, Article 49, Article 59 Paragraph 2, Article 67 paragraph 2 or Article 78, he shall pay the mariner a penalty equivalent to the unpaid amount (in the case contemplated in Article 59 paragraph 2 the balance between the minimum amount provided for in the same article and the amount of salary, wages or other remuneration fixed by contract) when a demand is made as provided by paragraph 2 for the amount (or the repatriation expense in the case contemplated in Article 47) which the shipowner is required to pay in accordance with the above-mentioned articles.

A mariner cannot demand payment of the penalty mentioned in the preceding paragraph without filing suit in a court. Such suit shall, however, be filed with the court within two years from the time of committing the offences mentioned in the same paragraph.



MARINERS LAW(Exceptions to Prescription)

## Article 117

Every claim of the mariner against the shipowner shall be barred by prescription, if it is not instituted within two years. The same shall apply to claims for the bereavement allowance and funeral expenses against the shipowner.

(Application with Modifications)

## Article 118

The provisions of Articles 31 to 34 inclusive, Article 84 paragraph 2 and Article 100 shall apply with necessary modifications to a contract for the employment of a reservist.

(Certification As to Census)

## Article 119

Any mariner, anyone who intends to become a mariner, any shipowner or master may, call upon a census official or his deputy to issue, free of charge, a census certificate for such mariner or a person who intends to become a mariner.

(Application to State and Public Entities)

## Article 120

This Law, the Labor Standards Law and the ordinance issued under this Law shall apply to the State, Tokyo, Hokkaido, prefectures, cities, towns, villages and similar public entities.

(Enaction of Ordinances)

## Article 122

No ordinance that is to be issued under this Law shall be enacted unless an extensive hearing is given in respect of draft thereof to representatives of the mariners and of the shipowners and to representatives for the public interests.

CHAPTER XIV

## PENAL PROVISIONS

## Article 122

If a master has, by abusing his power, compelled any person on board the vessel to do anything beyond the scope of such person's duty, or has obstructed any person in the exercise of his right, the master shall be liable to penal servitude for not more than two years.

## Article 123

If a master has contravened the provisions of Article 12, he shall be liable to penal servitude for not more than five years.



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## Article 124

If a master has, in contravention of the provisions of Article 13, failed to take every possible means necessary for the salving of human life or vessel, he shall be liable to penal servitude for not more than three years or to a fine not more than three thousand yen.

## Article 125

A master shall be liable to penal servitude for not exceeding two years or to a fine not more than two thousand yen in any of the following cases:

1. If he has contravened the provisions of Article 14;
2. If he has abandoned the vessel;
3. If he has deserted any seaman in a foreign country.

## Article 126

A master shall be liable to a fine not more than three thousand yen in any of the following cases:

1. If he has contravened the provisions of Articles 8, 10, 11, 16, Article 17 paragraph 1, Article 36, Article 50 paragraph 2, or Article 55.
2. If, in contravention of the provisions of Article 9, he has deviated from the predetermined route;
3. If, in contravention of the provisions of Article 13, he has failed to give any of the names;
4. If, in contravention of the ordinance issued under the provisions of Article 15, he has buried the body at sea;
5. If he has failed to keep aboard the documents provided for in Article 18, or if he has made no entry, or has made any false entry, of the required particulars in the documents provided for in items 2 to 4 inclusive of paragraph 1 of the same Article;
6. If he has made no report, or has made a false report, provided for in Article 19;
7. If he has kept aboard no book provided for in Article 67 paragraph 3, or has made no entry, or has made any false entry, of the required particulars.

## Article 127

If a seaman has done any violence or made any threat to his superior, he shall be liable to penal servitude for not more than three years or to a fine not exceeding three thousand yen.

## Article 128

A seaman shall be liable to penal servitude for not more than one year in any of the following cases:

1. If, in a case where there is an imminent danger to the vessel, he has left the vessel without the master's permission;



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2. If, in the case contemplated in Articles 12 to 14 inclusive where the master takes means necessary to save human life, the vessel or the cargo, he has refused to obey the orders of his superior;
3. If, in the case contemplated in Article 39 paragraph 3, he has failed to render services necessary for the emergency salvaging of human life, the vessel or the cargo;
4. If he has deserted from the vessel in a foreign country.

## Article 129.

If a shipowner has contravened the provisions of Article 85 paragraph 1 or 2, he shall be liable to penal servitude for not more than one year or to a fine not exceeding ten thousand yen.

## Article 130

If a shipowner has contravened the provisions of Article 33, Article 34 paragraph 1, Articles 35, 45 to 47 inclusive, 49, Article 59 paragraph 2, Article 63 paragraph 2, Article 67 paragraph 2, Articles 69, 70, 74, 78, 80, 82, 83, 86, 88, 89, 91 to 94 inclusive or Article 112 paragraph 2, or if he has contravened the provisions of the ordinance issued under the provisions of Article 73, he shall be liable to penal servitude for not more than six months or to a fine not exceeding five thousand yen.

## Article 131

A shipowner shall be liable to a fine not more than five thousand yen in any of the following cases:

1. If he has contravened the provisions of Article 32, Article 34 paragraph 2, Articles 53, 54, 56, Article 58 paragraph 1, Article 81 paragraph 1 or 2, Article 85 paragraph 3, Article 87, or Article 113;
2. If he has acted against the method of keeping or returning approved under the provisions of Article 34 paragraph 2;
3. If he has made no report, or has made a false report, provided for in Article 111.

## Article 132

A person shall be liable to a fine not more than five thousand yen in any of the following cases:

1. If he has failed to formulate the working regulations, or has made no report or has made false report thereon, provided for in Article 97;
2. If he has contravened the provisions of Article 98;
3. If he has contravened the ordinance issued under the provisions of Article 99;
4. If he has acted against the dealings provided for in Article 101;



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5. If he has refused, obstructed or evaded the search or examination, or has refused to obey the orders of call, or has failed to make a statement, or has made a false statement, on the question of a Mariners' Labor Inspector provided in Article 107;
6. If he has failed to produce the books or documents provided for in Article 107, or has produced books or documents containing false entries, or has failed to make a report or has made a false report;
7. If he has contravened the provisions of Article 109;
8. If, in the case contemplated in Article 112 paragraph 1, he has filed a false complaint.

## Article 133

A person shall be liable to a fine not more than three thousand yen in any of the following cases:

1. If he has failed to call, for certification of the contract of engagement in contravention of Article 37;
2. If he has had the contract of engagement certified by fraud or by any other unlawful means;
3. If he has thrown away or destroyed his own mariner's pocket-ledger;
4. If he has contravened the ordinance issued under the provision of Article 50 paragraph 3;
5. If he has had his mariner's pocket-ledger granted, revised or rewritten by fraud or by any other unlawful means;
6. If he has used the mariner's pocket-ledger of some other person.

## Article 134

The provisions of this Chapter which are to be applied to masters shall be applied to persons who perform the duties of masters in their place.

## Article 135

If any representative, agent, employee or any other worker of a shipowner has, in respect of the business of the shipowner, acted in contravention of the provisions of Articles 129 to 131 inclusive, Article 132 items 1 to 3 inclusive and 6 or Article 133 items 1 and 2, the fine provided for in the articles referred to shall be imposed upon the said shipowner in addition to the punishment meted out to the actual offender, except where the shipowner (or the representative in the case of a minor who does not have the same competency as an adult or of an incompetent; the same applying correspondingly to the following paragraphs of this Article) has taken necessary measures for the prevention of such contravention.



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If, in the case contemplated in the preceding paragraph, a shipowner has, in spite of his knowledge of the project for contravention, failed to take any necessary measures for the prevention thereof, or has failed, in spite of his knowledge of the act of contravention, to take necessary measures for the correction thereof or has instigated the contravention, the shipowner also shall be punished as an actual offender:

If the representative, agent, employee or any other worker of the association provided for in Article 97 paragraph 3 has acted in contravention of the provisions of Article 132, items 1 to 3 inclusive the provisions of the two preceding paragraph shall be applied with necessary modifications.

## SUPPLEMENTARY PROVISIONS

## Article 136

This Law except the provisions of Chapter X shall come into force as from the date of its promulgation. The date of enforcement of the provisions under Chapter X shall be designated by ordinance.

## Article 137

The Small-type Vessel Crew's Pocket-Ledger Law shall be repealed.

## Article 138

The provisions of the proviso of Article 68 paragraph 3 of the former Mariners Law shall still be effective even after the enforcement of this Law.

## Article 139

The provisions of the former Law shall be applied to matters which have occurred prior to the enforcement of this Law.

## Article 140

The provisions of Article 18 shall not be applied to vessels of less than 20 gross tons or to those navigating within smooth water areas, for the period of six months from the date of enforcement of this Law.

## Article 141

Such contracts of engagement of the persons who serve on board the vessels provided for in the preceding article as are existent at the time of enforcement of this Law, shall be deemed to have been concluded at that time, in respect of the application of the provisions of Article 37.

## Article 142

The provisions of Articles 60 to 70 inclusive shall not be applied to those wartime standard vessels which the competent authorities have designated, with the resolution of the Mariners' Labor Committee, as not having sufficient accommodation to satisfy the minimum requirements as to manning provided for in Article 69.



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## Article 143

The provisions of Article 83 shall not be applied to vessels navigating within partially smooth water areas, for the period of six months from the date of enforcement of this Law.

## Article 144

When a young person under fifteen years of age is to be employed as a mariner, or a young person under eighteen years of age is to be employed as a seaman who engages in carrying coal or in stoking, in continuation of their employment before the enforcement of this law, the provision of Article 85 shall not be applied to them for the period of six months from the date of enforcement of this Law.

## Article 145

The provisions of Article 67 paragraph 3, Articles 97 and 113 shall not be applied for the period of six months from the date of enforcement of this Law.

## Article 146

The following partial amendments shall be made in the Commercial Code:

Article 708 shall be deleted.

Article 709. The master shall keep on board the vessel the inventory of the ship's appurtenances and the documents relating to contracts of carriage.

It may be provided by ordinance in respect of a vessel which is not a foreign going vessel that the inventory of the ship's appurtenances mentioned in the preceding paragraph need not be kept on board.

Article 710 shall be deleted.

Article 711 shall be deleted.

The provisions of Articles 708 to 711 inclusive shall still be effective in cases where the applications of those provisions are necessary in connection with the application of other laws and ordinances.

## Article 147

The following partial amendments shall be made in the Law Concerning the Enforcement of the Commercial Code;

In Article 122 the term "the Minister of Communications" shall be revised to "the Minister of Transportation."

Article 130: The form of the inventory of the ship's appurtenances shall be fixed by the Minister of Transportation.



MARINERS LAWAPPENDED LIST

Degree of physical breakdown	Number of Months
The First Degree	48 months
The Second Degree	42 "
The Third Degree	39 "
The Fourth Degree	35 "
The Fifth Degree	33 "
The Sixth Degree	30 "
The Seventh Degree	25 "
The Eighth Degree	20 "
The Ninth Degree	15 "
The Tenth Degree	12 "
The Eleventh Degree	9 "
The Twelfth Degree	6 "
The Thirteenth Degree	4 "
The Fourteenth Degree	2 "



UNCLASSIFIED

Enclosure No. 4 to Despatch No. 593 dated September 9, 1948 from the Office of the Political Adviser for Japan, Tokyo, on the subject, "Resumption of Responsibility by Japanese Shipowners to Crew, Supply, Repair and Maintain Privately-Owned Merchant Vessels".

MARINERS LAWCHAPTER IGENERAL PROVISIONS  
(Mariner)

## Article 1

For the purpose of this Law, the term "mariner" shall include every master or seaman who serves on board a Japanese vessel or a non-Japanese vessel provided for in ordinance or every reservist.

A vessel mentioned in the preceding paragraph excludes any of the following vessels:

1. A vessel of less than five tons gross
2. A vessel navigating lakes, rivers or within harbors exclusively;
3. A fishing vessel of less than thirty tons gross.

## Article 2

The term "seaman" as used in this Law shall include every person except the master who is employed as a member of the crew on a vessel engaged in maritime navigation for salary, wages or any other remuneration to be paid in compensation for his service.

The term "reservist" as used in this Law shall include every person employed for purpose of serving on board the vessel provided for in paragraph 1 of the preceding article but not in service thereon.

## Article 3

The term "officer" as used in this Law shall include every mate, chief engineer, engineer, wireless operator, and every other seaman provided for in ordinance. The term "ratings" shall include every seaman other than officers.

(Salary or Wages and Hours of Work)

## Article 4

The expression "salary or wages" as used in this Law means a basic regular pay which constitutes a part of the fixed periodical payment made by the shipowner to the mariner by way of compensation, and the expression "hours of work" means time during which the mariner is engaged on watch duties or any other work under the official order of his superior.

(Application of Provisions Governing Shipowners)

## Article 5

The provisions relative to shipowners of this Law and the ordinance issued thereunder shall apply to the ship's husband in the case of co-ownership, to the lessee in the case of lease, and to the person in the case where a person other than owner, husband or lessee of the vessel employs a mariner.



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MARINERS LAW(Application of Labor Standards Law)

## Article 6

The provisions of Articles 1 to 11 inclusive, Articles 117 to 119 inclusive and Article 121 of the Labor Standards Law shall apply to mariners in respect to labor relations.

CHAPTER IIFUNCTIONS AND POWERS  
OF MASTERS(Right to Command and Order)

## Article 7

The master may command and supervise seamen and give persons on board the vessel orders necessary for the performance of his duties.

(Inspection before Commencement of Voyage)

## Article 8

The master shall, before the commencement of a voyage, make an inspection as to whether the vessel is fit for navigation and whether the other preparations necessary for the voyage are in due order.

(Completion of Voyage)

## Article 9

When preparations for a voyage have been completed, the master shall commence the voyage without delay, and except in case of necessity shall proceed to the port of destination without deviating from the predetermined route.

(Command on Deck)

## Article 10

The master shall take command of his vessel in person standing on deck, when the vessel enters or clears any port, or passes through any narrow fairway, or when there is any other danger to the vessel.

(Obligation to Remain on Board)

## Article 11

The master shall not, except in unavoidable circumstances, leave the vessel under his command, during the interval between the shipping of cargo or the embarkation of passengers and the discharge of cargo or the disembarkation of passengers, unless he has entrusted his duties to a person who would take command of the vessel in his stead.



MARINERS LAW(Means in Case of Danger to Vessels)

## Article 12

The master, when there is imminent danger to the vessel, shall not leave the vessel, unless he has exhausted every means necessary to save human life, the vessel and the cargo, and until the passengers, the seamen and other persons aboard have abandoned the vessel.

(Means in Case of Collision)

## Article 13

In case of collision between two vessels, the master of one vessel shall use every possible means necessary for the salvaging of the other vessel and human life on board the vessel and give the name of his vessel, her owner, her ports of registry, departure and destination to the master of the other vessel, except where there is imminent danger to the vessel under his command.

(Assistance of Vessels in Distress)

## Article 14

When it has come to the knowledge of any master that another vessel is in distress, he shall use every possible means necessary for the salvaging of human life on board the vessel, except in a case where there is imminent danger to the vessel under his command or in the case provided for in Ordinance.

(Burial at Sea)

## Article 15

The master may, in case there has occurred any death among the persons on board the vessel when under way, bury the body of such person at sea in accordance with the provisions of Ordinance.

(Custody of Effects)

## Article 16

If any person on board the vessel has died or become missing, the master thereof shall, in accordance with the provisions of Ordinance, take charge or make any other disposition of the effects which the person leaves on board the vessel, unless otherwise provided by other laws or ordinances.



MARINERS LAW(Repatriation of Nationals Abroad)

## Article 17

If a Japanese consul resident in a foreign country has, in accordance with the provisions of laws or ordinances, ordered a master to take any Japanese national to his own country, the master shall not refuse to obey such order except for justifiable reasons.

Necessary matters connected with repayment of the expenses of such repatriation shall be provided for by Ordinance.

(Obligation to Keep Documents)

## Article 18

The master shall, unless otherwise provided by Ordinance, keep the following documents on board:

1. The certificate of nationality of a ship or other certificates provided for in Ordinance;
2. The shipping articles;
3. The log book;
4. The list of passengers;
5. The documents relating to the cargo.

Necessary matters connected with the shipping articles, the log book and the list of passengers shall be provided for by Ordinance.

(Report on Navigation)

## Article 19

The master shall, in accordance with the provisions of Ordinance, report to the competent authorities, in the case falling under any of the following items:

1. If there has occurred any collision, stranding, foundering, loss, fire, damage to engines or any other shipping casualty;
2. If he has rendered services in salvaging human life or a vessel;
3. If, when the vessel is under way it has come to his knowledge, except by wireless, that another vessel is in distress;
4. If any person on board the vessel has died or is missing;
5. If a deviation has been made from the predetermined route;
6. If the vessel has been interned or captured, or has encountered any other remarkable accident.

(Performance of Master's Duties by Proxy)

## Article 20

If, in cases where the master has died or left his vessel, or where he is unable to take command thereof, he has failed to appoint any other person to his post, one of the seamen engaged in navigation who is next to him in the order of their grade or rating shall perform the duties of the master.



MARINERS LAWCHAPTER III

## DISCIPLINE

(Order on Board)

## Article 21

A seamen shall observe the following matters:

1. To obey the official orders of his superiors;
2. Neither to neglect his own duties, nor to obstruct any other members of the crew in the discharge of their duties;
3. To embark on the vessel by the time appointed by the master;
4. Not to leave the vessel without permission of the master;
5. Not to use a boat or any other important appurtenances without permission of the master;
6. Not to waste provisions or fresh water on board;
7. Not to use electricity or the heat of fire without permission of the master, or not to smoke at a place where smoking is prohibited;
8. Not to take into, or out of, the vessel any articles other than daily necessities without permission of the master;
9. Not to quarrel by force, get intoxicated, or not to commit any other outrage;
10. Not to commit such other acts as will disturb the order on board the vessel.

(Disciplinary Punishment)

## Article 22

The master may inflict disciplinary punishment on any seaman who has failed to observe any of the matters mentioned in the preceding article.

## Article 23

Disciplinary punishment shall be of two forms viz. prohibition of landing and admonition. The term of the prohibition of landing shall not exceed ten days including the first day of punishment and consisting solely of days when the vessel stays in port.

## Article 24

The master cannot inflict disciplinary punishment on any seaman without giving a hearing to three or more witnesses who are seamen, and without examining the seaman and the persons concerned in the presence of the witnesses.



MARINERS LAW(Measures in Case of Dangers)

## Article 25

If a seaman has on board any deadly weapons, explosive or inflammable articles, poisons or any other dangerous object, the master may take into his custody, abandon, or make any other disposition of, such things.

## Article 26.

If a seaman threatens to do any harm to the lives or bodies of persons on board the vessel, the master shall deal with him in such a manner as he deems necessary to avoid such harm.

## Article 27:

The master, if he deems necessary, may also deal with a passenger or any other person on board the vessel as provided by the two preceding articles.

(Compulsory Quittance of Vessels)

## Article 28

When a seaman fails to leave the vessel, after official certification has been obtained of the termination of a contract of engagement, the master may compel the seaman to quit such vessel.

(Call for Assistance of Administrative Authorities)

## Article 29

If, in cases where a seaman or any other person on board the vessel has done any such act as may endanger human life or the vessel, or as may seriously disturb the order on board, the master deems necessary, he may call for assistance from the administrative authorities.

(Limitation of Acts of Dispute)

## Article 30

An act of dispute concerning labor relations shall not be done while the vessel is in a foreign port or where the act of dispute may endanger human life or the vessel.

CHAPTER IV

## CONTRACTS OF ENGAGEMENT

(Contracts Contrary to this Law)

## Article 31

Such portion of a contract of engagement as contains provision for working conditions falling short of the standards fixed by this Law shall be invalidated.



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In such case the contract shall, in respect of the portion thus invalidated, be deemed to contain provision for working conditions coming up to the standards fixed by this Law.

(Notification of Working Condition)

## Article 32

The shipowner, on the conclusion of a contract of engagement, shall bring to the notice of his mariners salary or wages, hours of work and other working conditions. The same shall also apply when any modification has been made in the contract of engagement.

(Prohibition of Predetermination of Damages)

## Article 33

The shipowner shall not enter into any contract providing penalties for non-fulfilment of the contract or predetermining amount of damages.

(Prohibition of Compulsory Savings)

## Article 34

When concluding a contract of engagement, the shipowner shall not compel his mariners into a subsidiary contract to save some portion of their salary or wages or to deposit such savings in his custody.

If the shipowner intends to take charge of the mariner's savings at the latter's request, he shall fix the methods of keeping and returning the same and obtain the approval of the competent authorities.

(Limitation on Offsets)

## Article 35

The shipowner shall not set off an obligation which he has against a mariner, against his obligatory duty to pay the mariner his salary or wages, except in cases where the amount of deduction does not exceed one-third of that of the salary or wages or where the shipowner has a claim against the mariner for damages caused by his criminal act.

(Entry and Notification of Working Conditions)

## Article 36

When a contract of engagement has been concluded, the master shall make an entry, in the shipping articles of the working conditions laid down in the contract and bring it to the notice of his seamen. The same shall also apply when any alteration has been made in the contract of engagement.



MARINERS LAW(Certification of Contract of Engagement)

## Article 37

When a contract of engagement has been concluded, terminated, renewed or altered, the master shall, without delay, present the shipping articles to the competent authorities and call upon them to certify the contract of engagement, in accordance with the provisions of Ordinances.

When, in the case contemplated in the preceding paragraph, the master is unable to call for certification, the shipowner shall do so instead of the master.

## Article 38

The competent authorities, when called upon to certify a contract of engagement, shall examine the contract as to whether there is anything in it to conflict with the provisions of laws and ordinances concerning the safety of navigation or the mariners' labor relations, or as to whether mutual consent of the parties is sufficient.

(Termination of Contract by Ship's Foundering, etc.)

## Article 39

When a vessel falls under either of the following items, a contract of engagement shall terminate:

1. If the vessel has foundered or has been lost;
2. If the vessel has come into a state of total unseaworthiness.

A vessel shall be presumed to be lost, if it is unknown for one month whether she exists or not.

Even in cases where a contract of engagement has terminated in accordance with the provisions of paragraph 1, the mariner shall render services necessary for the emergency assistance of human life, the vessel or the cargo. In such case the contract shall be deemed to continue to exist.

(Rescission of Contract of Engagement)

## Article 40

The shipowner may rescind a contract of engagement in the case falling under any of the following items:

1. If the mariner has been found quite unfitted for his duties;
2. If the mariner has grossly neglected his duties or has been guilty of gross default in respect to his duties;
3. If the seaman has failed to embark on the vessel by the time appointed by the master;
4. If the seaman seriously disturbed the order on board the vessel;



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5. If the mariner has become incapacitated for his duties by reason of injury or sickness;
6. If any unavoidable necessity arises from a reason not specified in any of the foregoing items.

Article 41

A mariner may rescind the contract of engagement, in the case falling under any of the following items:

1. If the vessel has lost her nationality as of the time when the contract was concluded;
2. If the working conditions laid down in the contract have been found much at variance with the fact;
3. If he has become incapacitated for his duties by reason of injury or sickness;
4. If he is to be educated or trained as provided by Ordinance.

If, in cases where the vessel has completed her voyage from a foreign port, a mariner on board the vessel has given not less than twenty-four hours' written notice to rescind the contract, the contract shall terminate in respect of the mariner on the expiration of the period.

If a seaman furnishes in his place such a person as the master may consider competent and reliable, he may rescind the contract of engagement.

Article 42

A contract for an indefinite period shall terminate, if the shipowner or the mariner has given not less than twenty-four hours' written notice to rescind the contract, on the expiration of the period.

(Termination of Contract by Change of Ownership)Article 43

If there has been a change in the ownership of the vessel, a contract of engagement shall terminate, except when the change has happened by inheritance or any other case of general succession.

In the case contemplated in the preceding paragraph, it shall be deemed that, on and from the termination of the contract a contract identical in its terms with the former contract exists between the mariner and the new owner. In such case, the mariner may rescind the contract according to the provision of the preceding Article.

(Prolongation of Period of Engagement)Article 44

If a contract of engagement has terminated when the vessel is under way, the contract shall be deemed to continue in existence until the vessel has arrived at the next port and the unloading of cargo or the disembarkation of passengers at such port has been completed;



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and if the contract has terminated when the vessel is in port, the contract shall be so until the unloading of cargo or the disembarkation of passengers at the port has been completed.

If a contract of engagement terminates at a port where no competent mariner can be complemented, the shipowner may prolong the period of engagement of the mariner referred to until the vessel has arrived at a port where a competent mariner can be complemented and the unloading of cargo or the disembarkation of passengers has been completed. This shall not, however, apply in the case contemplated in item 1 to 3 inclusive, paragraph 1, Article 41.

(Unemployment Allowances)

## Article 45

If a contract of engagement has terminated in accordance with the provisions of Article 39, the shipowner shall pay a mariner, once a month, an unemployment allowance of the same amount as his salary or wages, for a period not exceeding two months, in respect of every day of his unemployment.

(Discharge Allowances)

## Article 46

The shipowner (or former shipowner in the case of item 4) shall without delay pay a mariner a discharge allowance of the same amount as his monthly salary or wages in the case falling under any of the following items:

1. If the shipowner has rescinded the contract of engagement in accordance with the provision of Article 40, item 6;
2. If the mariner has rescinded the contract of engagement in accordance with the provision of Article 41 paragraph 1, item 1 or 2;
3. If the shipowner has rescinded the contract of engagement in accordance with the provision of Article 42;
4. If the contract of engagement has terminated in accordance with the provision of Article 43, paragraph 1;
5. If the contract of engagement has been rescinded by reason of the mariner's inability to obtain a certificate of health provided in Article 81.

(Repatriation)

## Article 47

The shipowner shall, without delay and at his expense, take the mariner back to the port where he was engaged or to a place where the mariner desires to be taken to, or may substitute such repatriation for payment of the expenses of the repatriation, in the case falling under any of the following items:



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1. If the contract of engagement has terminated in accordance with the provision of Article 39;
2. If the shipowner has rescinded the contract of engagement in accordance with the provision of Article 40 item 1 or 6;
3. If the shipowner or the mariner has rescinded the contract of engagement in accordance with the provision of Article 40 item 5, or Article 41, paragraph 1, item 3. This shall not, however, apply in a case where the injury or sickness which the mariner sustained or contracted without relation to his duties is due to a wilful act or gross default on his part;
4. If the mariner has rescinded the contract of engagement in accordance with the provision of Article 41 paragraph 1, item 1 or 2;
5. If the shipowner has rescinded the contract of engagement in accordance with the provision of Article 42;
6. If the mariner has rescinded the contract of engagement in accordance with the provision of Article 43, paragraph 2;
7. If the contract of engagement of a mariner has terminated by the expiration of the period of engagement at a place other than his own country;
8. If the contract of engagement has been rescinded by reason of the mariners' inability to receive a certificate of health as provided in Article 81.

(Expenses of Repatriation)

## Article 48

The expenses for repatriating a mariner, which are to be borne by the shipowner, shall include the charges for transportation, accommodation and food of the mariner during the repatriation, and also charges for his accommodation and food from the time of the termination of the contract up to the time of his immediate departure.

(Repatriation Allowances)

## Article 49

The shipowner shall pay a mariner a repatriation allowance of the same amount as his salary or wages in respect of every day required for his repatriation. The same shall apply in cases where the expenses of repatriation are paid in lieu of repatriation.

The repatriation allowance mentioned in the preceding paragraph shall be paid once a month in case the shipowner takes back a mariner or at the time of payment of repatriation expenses in case the shipowner pays the same in lieu of repatriation.



MARINERS LAW(Mariner Pocket-Ledger)

## Article 50

A mariner shall hold a mariner's pocket-ledger.

The master shall take charge of the pocket-ledger of his seaman while the seaman is on board the vessel.

Necessary matters pertaining to the grant, correction, rewriting and return of a mariner's pocket-ledger shall be prescribed by Ordinance.

(Certificate as to Quality of Work)

## Article 51

A seaman may demand the master to grant a certificate as to the quality of his work.

CHAPTER VSALARY, WAGES OR OTHER REMUNERATIONS(Method of Fixing Salary, Wages or other Remunerations)

## Article 52

The salary, wages or other remunerations of a mariner shall be fixed in consideration of the particular nature of maritime labor and according to his experience, capacity, and service.

(Method of Paying Salary, Wages or other Remunerations)

## Article 53

The salary, wages, or other remunerations shall be paid direct to the mariner in currency and in full, unless otherwise provided by law, ordinance, or by collective agreement.

The salary, wages or other remunerations except those provided by Ordinance shall be paid once or more each month on the fixed day, or days.

## Article 54

The shipowner shall without delay pay a mariner such salary, wages or any other remuneration provided for in paragraph 2 of the preceding Article even before the pay-day in respect of every day of service, in the case falling under any of the following items:

1. If a mariner has been discharged, or has retired, from his service;
2. If a mariner has demanded his salary, wages or any other remuneration to be paid in order that any of them may be used by the mariner, or by any one of his relatives who is living with him or by a person who maintains his existence upon the income of such mariner, to meet the expense for marriage or funeral, childbirth or medical treatment, or the expense for the recovery from an unforeseen accident.



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## Article 55

When the salary, wages or any other remuneration of a seaman is to be paid on board the vessel, the master himself shall deliver the same to the seaman. When an unavoidable necessity arises, however, the master may cause another officer to deliver the same.

## Article 56

The shipowner shall, if called upon by a mariner to do so, pay the salary, wages, or any other remuneration of the mariner to one of his relatives who is living with him or to a person who maintains his existence upon the income of such mariner.

(Right to Demand Salary or Wages During Injury or Sickness)

## Article 57

A mariner may, during the term of his engagement, demand his salary or wages and allowances provided for in Ordinance even for the period during which he has not been in service by reason of injury or sickness, except where such injury or sickness is due to a wilful act or gross default on the part of the mariner.

(Remuneration in Percentage)

## Article 58

In case where the remuneration is paid in percentage, the sum of such remuneration shall not be less than the amount fixed by the shipowner, even if the monthly sum computed in percentage does not amount to the fixed amount.

In the application of the provisions of Article 35 and the preceding Article, the fixed amount of remuneration as provided for in the preceding paragraph shall be deemed to be salary or wages.

In cases where the remuneration of a mariner is paid in percentage, the amount fixed by the shipowner shall be deemed to be the mariner's monthly salary or wages, in the application of the provisions of Article 45, 46, 49 and 78.

The amount mentioned in the preceding paragraph shall not be less than the fixed amount provided for in paragraph 1.

(Minimum Salary or Wages)

## Article 59

The competent authorities may, if they deem necessary, fix the minimum amount of salary, wages or any other remunerations in accordance with the provisions of Ordinance, with the consent of the Labor Commission organized under the Labor Union Law (hereinafter called the Mariners' Labor Commission).

The shipowner shall not employ a mariner at a salary, wages or any other remuneration lower than the minimum amount provided for in the preceding paragraph.



MARINERS LAWCHAPTER VIHOURS OF WORK, REST DAYS AND MANNING(Hours of Work of Persons Whose  
Time is Divided Into Watches)

## Article 60

The hours of work of the following persons whose time is to be divided into watches, shall not exceed eight in the day, nor shall they exceed fifty-six in the week, when they keep watch on board the vessel.

1. Deck officers, wireless operators and deck ratings on board the vessels of not less than 2,000 tons gross;
2. Engineer-officers and ratings on board the vessels of not less than 700 tons gross.

The master, without prejudice to the provisions of the preceding paragraph, may extend the hours of work within the following limits:

1. Not more than one hour per day in respect of the hours of work of deck officers or wireless operators whose time is divided into watches;
2. In cases where the master has, out of special necessity, increased the number of deck officers or wireless operators whose time is divided into watches not more than four hours per day in respect of such increased persons;
3. Hours necessary for the regular alternation of watches or for the throwing away of cinders, in respect of the hours of work of engineer-ratings whose time is divided into watches.

(Sea Watch While the Vessel is in Port)

## Article 61

Sea watches shall be suspended while the vessel is in port, except within twelve hours after its entry, or twelve hours before its scheduled time of clearance, or where the master deems necessary for the safety of the vessel.

(Hours of Work of Persons Whose  
Time is not Divided into Watches)

## Article 62

The hours of work at sea and on arrival and sailing days of those officers and ratings in the deck and engine-room departments on board vessels of not less than 700 gross tons whose time is not divided into watches shall not exceed eight in the day nor shall they exceed forty-eight in the week.



MARINERS LAW(Hours of Work and Holidays  
while the Vessel is in port)

## Article 63

The hours of work in port (except on arrival and sailing days: the same applying correspondingly to the following articles) of deck and engineer officers and wireless operators and of deck and engineer-ratings shall not exceed eight in the day nor shall they exceed forty-eight in the week except in cases where their time is divided into watches in accordance with the provision of Article 61.

The shipowner shall, while the vessel is in port, give at least one rest day per week to a seaman mentioned in the preceding paragraph.

When an unavoidable circumstance occurs, the master may, notwithstanding the provision of the preceding paragraph, cause a seaman mentioned in paragraph 1 to do a necessary work even on a rest day, provided, however, that the limit of forty-eight hours of work per week shall not be exceeded thereby.

(Hours of Work of Ratings in Catering  
and Clerical Departments)

## Article 64

Hours of rest at sea of ratings in the catering and clerical departments on board the vessel with a capacity of more than twelve passengers shall not be less than twelve in the day.

The hours of rest mentioned in the preceding paragraph shall include a rest of at least eight consecutive hours.

## Article 65

The hours of work at sea and on arrival and sailing days of ratings in the catering and clerical departments on board the vessels, excepting those mentioned in paragraph 1 of the preceding article, shall not exceed eight in the day. If the master deems necessary, however, he may extend them within the limit of two hours per day.

## Article 66

The hours of work in port of ratings in the catering and clerical departments shall not exceed eight in the day, unless otherwise provided by the collective agreements.

(Overtime Work and Allowances Therefor)

## Article 67

When an urgent necessity arises, the master may cause any seaman to engage in work in excess of the limit hours provided for in Articles 60, 62, Article 63 paragraph 1, the proviso of Article 63 paragraph 3, Article 65 and the preceding article, or may reduce the hours of rest mentioned in Article 64 paragraph 1, or shall not have to give a rest of eight consecutive hours notwithstanding the provision of paragraph 2 of the same article.



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When the hours of work have been extended, or the hours of rest have been reduced, or the rest of eight consecutive hours has not been given under the provision of the preceding paragraph, the shipowner shall pay such overtime allowances as provided by Ordinance.

The master shall, in accordance with the provisions of Ordinance, keep on board the vessel a book in which an entry is to be made of matters connected with the overtime allowances mentioned in the preceding paragraph.

(Exceptions)

## Article 68

The provisions of Article 60 and Articles 62 to 67 inclusive shall not apply in cases where seamen are engaged in any of the following works under the master's order.

1. An urgent work necessary for the safety of human life, the vessel or the cargo, or for the purpose of rendering assistance to persons or other vessels;
2. Fire, lifeboat and similar drills of the kind;
3. Extra work resulting from the reduction in the number of serviceable seamen due to injury, sickness, death, or any other unforeseen accident.
4. Extra work for the purpose of customs, quarantine or other health formalities;
5. Work for the determination of the position of the vessel at noon.

(Manning)

## Article 69

The shipowner, unless otherwise provided by ordinance, shall fix the minimum requirements as to manning and embark such seamen for service on board the vessel in order to comply with the provisions of Articles 60 to 66 inclusive.

If, in the course of a voyage, any reduction in the number of seamen has taken place, the shipowner shall, without delay, complement a necessary number thereof.

## Article 70

The minimum number of deck ratings whose time is to be divided into watches on board the vessels of not less than 700 gross tons shall be nine, and not less than three of them shall be available for each navigational watch. However, in the case of vessels of not more than 2,000 gross tons, six ratings shall be sufficient for the minimum number.

Included among the minimum number mentioned in the preceding paragraph shall be no ratings with less than one year's sea service on deck, except as otherwise fixed by the collective agreement.



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More than one half of the minimum number mentioned in the first paragraph must be over eighteen years of age and either have had at least three years' service on deck or have been granted a certificate issued by the competent authorities under the provisions of ordinance showing that their standard efficiency is equal to that of the average ratings who have had three years' sea service on deck.

(Scope of Application)

## Article 71

The provisions of articles 60 to the preceding article inclusive shall not apply in respect of the following vessels:

1. A vessel of less than 1,000 gross tons which navigates within the partially smooth water area or the smooth water area and among domestic ports exclusively (excepting such a vessel as the competent authorities may designate through the deliberation of the Mariners' Labor Commission);
2. A sailing-vessel;
3. A vessel engaged in fishing.

## Article 72

The provisions of Articles 60 to 70 inclusive shall not apply to the following persons:

1. Chief officers in the deck, engine-room and wireless departments whose time is not divided into watches;
2. Doctors and staff exclusively engaged in compounding medicines or on nursing duties.

## Article 73

The competent Minister may, if he deems necessary, issue necessary orders regarding the hours of work, rest days and manning of mariners to whom the provision of Articles 60 to 70 inclusive are not applied with the resolution of the Mariners' Labor Commission.

CHAPTER VIIHOLIDAYS WITH PAY(Granting of Holidays With Pay)

## Article 74

If a mariner has had continuous sea service of a year on board the same vessel, (including service while the vessel is being equipped or under repairs: the same applying correspondingly to the following articles), the shipowner shall, within one year from such duration of time, give the mariner holidays with pay. If the vessel is on a voyage, however, the shipowner may postpone bestowal of such holidays with pay for a period necessary for the voyage.



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In cases where a mariner has left the service of one vessel for that of another engaged in the same kind of undertaking, the periods of service which precede and follow the change of vessels shall be deemed to have continued on board the same vessel.

If, in cases where the periods of sea service are interrupted, the interruption is not due to a wilful act or default on the part of the mariner and the period of interruption does not exceed a total of six weeks, such interruption shall not be deemed to break the continuity of the periods of service which precede and follow it.

(Period of Holidays With Pay)

## Article 75

Every mariner shall be granted twenty-five days off with pay after every year of continuous service and additional five days for every additional three months of continuous service.

Every mariner on board the vessel navigating within the partially smooth water area or the smooth water area and among domestic ports exclusively, shall be granted twelve days off with pay after every year of continuous service, and additional two days for every additional three months of continuous service, without prejudice to the provisions of the preceding paragraph.

## Article 76

In cases where the shipowner grants a mariner any time off for weekly rest days and public and customary holidays or holidays in lieu thereof, such time shall not be included in the holidays with pay mentioned in the preceding article.

The same shall apply in respect to interruptions of sea service due to the mariner's injury or sickness.

(Method of Granting Holidays With Pay)

## Article 77

The time when and the port where mariner is to be given holidays with pay shall be fixed by mutual agreement of the mariner and the shipowner.

The period of holidays with pay may, in accordance with the provisions of the collective agreement, be given in parts.

(Remunerations During Holidays With Pay)

## Article 78

The shipowner shall pay a mariner salary or wages and allowances and food expenses provided for in ordinance during the full period of the holidays with pay.

The shipowner shall pay a mariner who is discharged or retired from his service before the mariner has taken a holiday due to him, the salary or wages and allowance and food expense provided for in the preceding paragraph, in respect of every holiday due to him.



MARINERS LAW(Scope of Application)Article 79

The provisions of this Chapter shall not apply in respect to the following vessels:

1. Vessels engaged in fishing;
2. Vessels on which only members of the same family with the shipowner are employed.

CHAPTER VIIIFOOD AND SANITATION(Supply of Food)Article 80

The shipowner shall, in accordance with the provisions of ordinance, provide food to a mariner during the period of his sea service.

The mariner on board the vessel of not less than 700 gross tons which navigates within the oceangoing area or the coasting area or on board such a fishing vessel as is provided for in ordinance, shall be provided with food according to the food table fixed by the competent Minister.

(Certificate of Health)Article 81

The shipowner shall not take into sea service any person who does not possess a certificate of health whereby a doctor designated by the competent authorities proves that he is fitted for sea service. This shall not, however, apply to a case where an unavoidable necessity arises.

In the case contemplated in the proviso of the preceding paragraph, the shipowner shall without delay take a procedure in order that such a person may obtain a certificate of health at a port reached thereafter. In such case, the shipowner shall not continue to employ a person who is unable to receive a certificate of health.

Necessary matters connected with certificates of health shall be provided by ordinance.

(Carrying of Doctors)Article 82

The shipowner shall see that a vessel of not less than 5,000 gross tons which navigates within the oceangoing area or a vessel with a maximum capacity of not less than 100 persons which navigates within the oceangoing area or the coasting area will carry a doctor or doctors.

However, if, in cases where an unavoidable necessity arises, approval has been obtained from the competent authorities, it is not necessary to carry such doctor for a certain fixed period.



MARINERS LAW(Health Requirements and Medical Books)Article 83

The shipowner shall see that a vessel which navigates within the oceangoing area, the coasting area or the partially smooth water area or a fishing vessel provided for in ordinance will carry on board such medicines, other health requirements and medical books as the competent Minister prescribes.

CHAPTER IXJUVENILE MARINERS AND WOMEN MARINERS(Competency of Minors)Article 84

No minor shall become a mariner without obtaining the consent of his legal representative.

A minor who has obtained the consent mentioned in the preceding paragraph, shall have the same competency as an adult in respect of a contract of engagement.

(Minimum Age)Article 85

The shipowner shall not employ a young person under fifteen years of age as a mariner. This shall not, however, apply to vessels on which only members of the same family are employed.

The shipowner shall not employ a young person under eighteen years of age as a seaman who engages in carrying coal or in stocking.

The shipowner cannot employ a young person under eighteen years of age as a mariner unless the person has his pocket-ledger attested by the competent authorities.

Necessary matters connected with the attestation mentioned in the preceding paragraph shall be provided by ordinance.

(Women Before and After Childbirths)Article 86

The shipowner, if so called upon by a woman whose confinement will probably take place within six weeks, shall not cause her to work on board a vessel.

The shipowner shall not take into sea service a woman unless six weeks' time has elapsed since her Childbirth.

The shipowner, if so called upon by a pregnant woman, shall make her engage in other lighter work.

The provisions of the three preceding paragraphs shall not apply to a vessel on which only members of the same family are employed.



MARINERS LAW(Menstrual Holidays)

## Article 87

The shipowner, if so called upon by a woman who finds it very hard to work for menstrual days, shall not make her engage in work on board a vessel during her menstrual days.

(Prohibition of Work at Night)

## Article 88

The shipowner shall not cause a mariner under eighteen years of age or a female mariner to do any work during the period between 8 p.m. and 5 a.m. of the next morning. The same shall not apply in case provided by ordinance where the shipowner gives a nine consecutive hours' rest between other times before and after midnight.

The provisions of the preceding paragraph shall not apply to a vessel on which only members of the same family with the shipowner are employed.

CHAPTER X

## COMPENSATIONS FOR ACCIDENTS

(Compensation for Medical Treatment)

## Article 89

When a mariner has sustained an injury or contracted a sickness in the performance of his duties, the shipowner shall grant him medical benefits at the shipowner's expense or pay him the cost of necessary medical treatment until he has completely recovered from such injury or sickness.

When a mariner has, during the term of his engagement, sustained an injury or contracted a sickness without relation to the performance of his duties, the shipowner shall grant him medical benefits at the shipowner's expense or pay him the cost of necessary medical treatment for a period not exceeding three months, except in cases where such injury or sickness is due to a wilful act or gross default on the part of the mariner.

## Article 90.

The medical benefits or treatment provided for in the preceding article shall include each of the following items:

1. Medical examinations;
2. Supply of drugs, medicines or medical appliances;
3. Surgical treatments, operations or other remedies;
4. Admission to hospitals or clinics or other places outside mariners' homes necessary for medical treatments (including supply of food);
5. Sick-nursing;
6. Transportation.



MARINERS LAW(Injury or Sickness Allowances and  
Convalescence Allowances)

## Article 91

When a mariner has sustained an injury or contracted a sickness in the performance of his duties, the shipowner shall pay him, once a month, an injury or sickness allowance equivalent to the monthly amount of the remuneration provided for in ordinance (hereinafter called the standard remuneration) for a period not exceeding four months and until the mariner has completely recovered from such injury or sickness. In cases where the mariner has not completely recovered from such injury or sickness even after the lapse of the four months, the shipowner shall pay him, once a month, an injury or sickness allowance equivalent to sixty per centum of the monthly standard remuneration until he has completely recovered.

The shipowner shall, immediately after the mariner has completely recovered from the injury or sickness provided for in the preceding paragraph, pay him a convalescence allowance equivalent to sixty per centum of the monthly standard remuneration.

The provisions of the two preceding paragraphs shall not apply in cases where the injury or sickness is due to a wilful act or gross default on the part of the mariner.

(Accident Allowances)

## Article 92

If, in cases where a mariner has completely recovered from injury or sickness which he sustained or contracted in the performance of his duties, he is still in a state of physical breakdown, the shipowner shall, immediately after the recovery, pay him an accident allowance equal to the monthly standard remuneration multiplied by the number of months mentioned in the Appended List according to the degree of the breakdown. The same shall not, however, apply in cases where the injury or sickness is due to a wilful act or gross default on the part of the mariner.

(Bereavement Allowances)

## Article 93

When a mariner has died in the performance of his duties, the shipowner shall without delay pay a bereavement allowance equivalent to the monthly standard remuneration multiplied by thirty-six to the members of the bereaved family provided for by ordinance. The same shall apply in cases where a mariner has died from injury or sickness which he sustained or contracted in the performance of his duties.



MARINERS LAW(Funeral Expenses)

## Article 94

When a mariner has died in the the performance of his duties, the shipowner shall without delay pay a funeral expense equivalent to the monthly standard remuneration multiplied by two to a member of the bereaved family, provided for by ordinance, who holds the funeral services. The same shall apply in cases where a mariner has died from injury or sickness which he sustained or contracted in the performance of his duties.

(Relations to Other Benefits)

## Article 95

If a person who is entitled, under the provisions of Articles 89 to the preceding Article inclusive, to receive medical benefits or expenses of medical treatments, allowances or funeral expenses (hereinafter collectively called the compensations for accidents), has come to receive, for the same cause whereby he is entitled to receive such compensations for accidents, the insurance benefits provided for in the Mariners' Insurance Law or such benefits corresponding to the compensations for accidents as are provided for by ordinance, the shipowner shall be relieved of his liability for such compensations for accidents.

(Examination and Arbitration)

## Article 96

When a person is dissatisfied with the ascertainment of injury, sickness or death caused by the performance of duties, with the method of medical benefits or treatments, with the decision of making compensations for accidents or with any other way of making compensations for accidents, he may call upon competent authorities for an examination or arbitration in the matter.

The competent authorities may, if they deem necessary, exercise their authority in examining or arbitrating in the matter.

The competent authorities shall not either examine or arbitrate in the matter without giving a hearing to the master or to other persons concerned.

The competent authorities may, if they deem necessary for examination and arbitration in the matter, cause a doctor to conduct a medical examination or an autopsy.

The call for the examination or the arbitration in the matter mentioned in paragraph 1 and the commencement of the examination or the arbitration in the matter mentioned in paragraph 2 shall be regarded as a demand by way of judicial proceedings, in respect of the interruption of prescription.



MARINERS LAWCHAPTER XI

## WORKING REGULATIONS

(Formulation of Working Regulations and Report Thereof)

## Article 97

A shipowner who regularly employs ten or more mariners shall, in accordance with the provisions of ordinance, formulate working regulations for the following particulars and report them to the competent authorities. The same shall apply in case where alterations are made therein:

1. Salary or wages, and other remunerations;
2. Hours of work;
3. Days of rest and holidays.

When the shipowner mentioned in the preceding paragraph has formulated working regulations for the following particulars, he shall report them to the competent authorities. The same shall apply in cases where alterations are made therein:

1. Manning;
2. Food and sanitation;
3. Clothing and daily necessities;
4. Facilities on land of accommodation, recreation, medical treatment and amusement;
5. Compensations for accidents;
6. Unemployment allowances, discharge allowances and retiring allowances;
7. Repatriation;
8. Education;
9. Rewards and punishments;
10. Other working conditions.

An association which is a juridical person consisting of shipowners may formulate working regulations which are to apply to those constituent shipowners mentioned in paragraph 1 and make a report thereon. The same shall apply in cases where alterations are made therein.

In case the report thereon has been made in accordance with the provisions of the preceding paragraph, the shipowners provided therein are not required to make the said working regulations, make the report on the formulation or on the alteration thereof.

The report provided for in paragraphs 1 to 3 inclusive shall accompany a document containing the opinions expressed under the provision of Article 98.



MARINERS LAW(Procedures of Formulating Working Regulations)

## Article 98

The shipowner or the juridical person provided for in the preceding Article, paragraph 3 cannot make or alter the working regulations without giving a hearing to a labor union, if there is any that is organized by more than half of the mariners in the employ of the shipowner to whom the working regulations apply, or to the representatives of more than half of such mariners, if there is no labor union organized by more than half of the mariners.

(Supervision Over Working Regulations)

## Article 99

The competent authorities may order alteration of the working regulations containing elements which are in conflict with laws, ordinances or collective agreements.

The competent authorities may, if they deem the working regulations to be inappropriate, order alteration thereof with the resolution of the Mariners' Labor Commission.

(Effect of Working Regulations)

## Article 100

Such portion of a contract of engagement as contains provision for working conditions falling short of the standard fixed in the working regulations, shall be invalidated. In such case the contract shall, in respect of the portion thus invalidated, be deemed to contain provision for working conditions coming up to the standard fixed in the working regulations.

CHAPTER XII

## SUPERVISION

(Competent Authorities)

## Article 101

The competent authorities may, if they consider that some act of a shipowner or a mariner is in conflict with this Law, the Labor Standards Law (only the portions applying to mariners' labor relations: the same applying correspondingly to the following articles) or ordinances issued under this Law, deal with the shipowner or the mariner in such a manner as they may necessary.

## Article 102

The competent authorities may exercise their good offices to settle troubles concerning labor relations (except the labor disputes provided for in Article 6 of the Labor Relations Adjustment Law) between the shipowner and the mariners.



MARINERS LAW(Business of Competent Authorities  
In Foreign Countries)

## Article 103

The business which the competent authorities are required by this Law to discharge shall, under the provisions of Ordinance, be conducted by Japanese consuls in foreign countries.

(Mayors and Headmen of Towns And Villages  
Undertaking Business of Competent Authorities)

## Article 104

The competent Minister may cause the mayor of a city, or the headman of a town or a village to undertake the business which the competent authorities are required by this Law to discharge.

(Mariners' Labor Inspectors)

## Article 105

The competent Minister shall appoint Mariners' Labor Inspectors from among his subordinate officials and cause them to control matters connected with the enforcement of this Law and the Labor Standards Law.

## Article 106

The Mariners' Labor Inspector may, if he deems necessary, warn or urge shipowners or mariners to observance of this Law, the Labor Standards Law and ordinances issued under this Law.

## Article 107

The Mariners' Labor Inspector may, if he deems necessary, make a search of the vessel or any other place of work or may order shipowners or mariners to call or produce books and documents or to make reports or may ask questions of such persons.

The Mariners' Labor Inspector may, if he deems necessary, ask questions of a passenger or any other person on board the vessel.

In the cases contemplated in the two preceding paragraphs, the Mariners' Labor Inspector shall carry with him an identification card testifying to his official status.

## Article 108

The Mariners' Labor Inspector shall exercise the judicial police powers provided for in the Code of Criminal Procedure in respect of offences under this Law and the Labor Standards Law.

## Article 109

The Mariners' Labor Inspector shall not break any secrets that he has learned in the performance of his duties. The same shall also apply in the case where he has left his office as a Mariners' Labor Inspector.



MARINERS LAW(Powers of Mariners' Labor Commission)

## Article 110

The Mariners' Labor Commission shall, in addition to the exercise of the powers provided for in the Labor Union Law, investigate and deliberate, in response to request from the competent authorities, matters connected with the enforcement or revision of this Law and the Labor Standards Law.

The Mariners' Labor Commission may present the competent authorities a recommendation concerning the mariners' working conditions.

(Matters to Be Reported)

## Article 111

The shipowner shall, in accordance with the provisions of ordinance, present a report to the competent authorities on the following particulars:

1. Number of mariners in his employ;
2. State in which salary, wages, or other remunerations are paid;
3. State in which compensations are made for accidents;
4. Other matters provided for in ordinances.

(Complaints of Mariners)

## Article 112

If there is any fact which is in conflict with this Law, the Labor Standards Law or ordinances issued under this Law, a mariner may, in accordance with the provisions of ordinance, lodge a complaint respecting the fact with the competent authorities, the Mariners' Labor Inspector or the Mariners' Labor Commission.

The shipowner shall not discharge a mariner or give him any other disadvantageous treatment because of the mariner's lodging the complaint mentioned in the preceding paragraph.

CHAPTER XIII

## MISCELLANEOUS PROVISIONS

(Notification of Working Regulations Etc.)

## Article 113

The shipowner shall post at some noticeable place on board the vessel the documents containing this Law, the Labor Standards Law, the ordinances issued under this Law, the collective agreements and the working regulations or keep such documents on board the vessel.



MARINERS LAW(Adjustment of Remunerations,  
Compensations and Allowances)

## Article 114

In regard to the period during which the shipowner is required to pay at the same time any two or more out of salary, wages or other remuneration, unemployment allowance, repatriation allowance or injury or sickness allowance, it shall suffice for him to pay any one whose amount is the largest of them all.

If, in the case where the shipowner is required to pay salary, wages or other remuneration, he is to pay either discharge allowance or convalescence allowance he shall be relieved of his liability for such discharge allowance or convalescence allowance to the extent of his payment of such salary, wages or other remuneration.

(Prohibition of Transfer or Attachment)

## Article 115

The right to receive the unemployment allowance, discharge allowance, repatriation expense or the compensation for accident shall be inalienable and shall not be liable to attachment. The same shall apply to the right to receive salary, wages or other remuneration (within the limit of the amount of the injury or sickness allowance) during the period in which the salary, wages or other remuneration and the injury or sickness allowance are to be paid at the same time.

(Payment of Penalty)

## Article 116

In cases where the shipowner has committed any offence under Articles 45 to 47 inclusive, Article 49, Article 59 Paragraph 2, Article 67 paragraph 2 or Article 78, he shall pay the mariner a penalty equivalent to the unpaid amount (in the case contemplated in Article 59 paragraph 2 the balance between the minimum amount provided for in the same article and the amount of salary, wages or other remuneration fixed by contract) when a demand is made as provided by paragraph 2 for the amount (or the repatriation expense in the case contemplated in Article 47) which the shipowner is required to pay in accordance with the above-mentioned articles.

A mariner cannot demand payment of the penalty mentioned in the preceding paragraph without filing suit in a court. Such suit shall, however, be filed with the court within two years from the time of committing the offences mentioned in the same paragraph.



MARINERS LAW(Exceptions to Prescription)

## Article 117

Every claim of the mariner against the shipowner shall be barred by prescription, if it is not instituted within two years. The same shall apply to claims for the bereavement allowance and funeral expenses against the shipowner.

(Application with Modifications)

## Article 118

The provisions of Articles 31 to 34 inclusive, Article 84 paragraph 2 and Article 100 shall apply with necessary modifications to a contract for the employment of a reservist.

(Certification As to Census)

## Article 119

Any mariner, anyone who intends to become a mariner, any shipowner or master may, call upon a census official or his deputy to issue, free of charge, a census certificate for such mariner or a person who intends to become a mariner.

(Application to State and Public Entities)

## Article 120

This Law, the Labor Standards Law and the ordinance issued under this Law shall apply to the State, Tokyo, Hokkaido, prefectures, cities, towns, villages and similar public entities.

(Enaction of Ordinances)

## Article 122

No ordinance that is to be issued under this Law shall be enacted unless an extensive hearing is given in respect of draft thereof to representatives of the mariners and of the shipowners and to representatives for the public interests.

CHAPTER XIV

## PENAL PROVISIONS

## Article 122

If a master has, by abusing his power, compelled any person on board the vessel to do anything beyond the scope of such person's duty, or has obstructed any person in the exercise of his right, the master shall be liable to penal servitude for not more than two years.

## Article 123

If a master has contravened the provisions of Article 12, he shall be liable to penal servitude for not more than five years.



MARINERS LAW

## Article 124

If a master has, in contravention of the provisions of Article 13, failed to take every possible means necessary for the salving of human life or vessel, he shall be liable to penal servitude for not more than three years or to a fine not more than three thousand yen.

## Article 125

A master shall be liable to penal servitude for not exceeding two years or to a fine not more than two thousand yen in any of the following cases:

1. If he has contravened the provisions of Article 14;
2. If he has abandoned the vessel;
3. If he has deserted any seaman in a foreign country.

## Article 126

A master shall be liable to a fine not more than three thousand yen in any of the following cases:

1. If he has contravened the provisions of Articles 8, 10, 11, 16, Article 17 paragraph 1, Article 36, Article 50 paragraph 2, or Article 55.
2. If, in contravention of the provisions of Article 9, he has deviated from the predetermined route;
3. If, in contravention of the provisions of Article 13, he has failed to give any of the names;
4. If, in contravention of the ordinance issued under the provisions of Article 15, he has buried the body at sea;
5. If he has failed to keep aboard the documents provided for in Article 18, or if he has made no entry, or has made any false entry, of the required particulars in the documents provided for in items 2 to 4 inclusive of paragraph 1 of the same Article;
6. If he has made no report, or has made a false report, provided for in Article 19;
7. If he has kept aboard no book provided for in Article 67 paragraph 3, or has made no entry, or has made any false entry, of the required particulars.

## Article 127

If a seaman has done any violence or made any threat to his superior, he shall be liable to penal servitude for not more than three years or to a fine not exceeding three thousand yen.

## Article 128

A seaman shall be liable to penal servitude for not more than one year in any of the following cases:

1. If, in a case where there is an imminent danger to the vessel, he has left the vessel without the master's permission;



MARINERS LAW

2. If, in the case contemplated in Articles 12 to 14 inclusive where the master takes means necessary to save human life, the vessel or the cargo, he has refused to obey the orders of his superior;
3. If, in the case contemplated in Article 39 paragraph 3, he has failed to render services necessary for the emergency salvaging of human life, the vessel or the cargo;
4. If he has deserted from the vessel in a foreign country.

## Article 129.

If a shipowner has contravened the provisions of Article 85 paragraph 1 or 2, he shall be liable to penal servitude for not more than one year or to a fine not exceeding ten thousand yen.

## Article 130

If a shipowner has contravened the provisions of Article 33, Article 34 paragraph 1, Articles 35, 45 to 47 inclusive, 49, Article 59 paragraph 2, Article 63 paragraph 2, Article 67 paragraph 2, Articles 69, 70, 74, 78, 80, 82, 83, 86, 88, 89, 91 to 94 inclusive or Article 112 paragraph 2, or if he has contravened the provisions of the ordinance issued under the provisions of Article 73, he shall be liable to penal servitude for not more than six months or to a fine not exceeding five thousand yen.

## Article 131

A shipowner shall be liable to a fine not more than five thousand yen in any of the following cases:

1. If he has contravened the provisions of Article 32, Article 34 paragraph 2, Articles 53, 54, 56, Article 58 paragraph 1, Article 81 paragraph 1 or 2, Article 85 paragraph 3, Article 87, or Article 113;
2. If he has acted against the method of keeping or returning approved under the provisions of Article 34 paragraph 2;
3. If he has made no report, or has made a false report, provided for in Article 111.

## Article 132

A person shall be liable to a fine not more than five thousand yen in any of the following cases:

1. If he has failed to formulate the working regulations, or has made no report or has made false report thereon, provided for in Article 97;
2. If he has contravened the provisions of Article 98;
3. If he has contravened the ordinance issued under the provisions of Article 99;
4. If he has acted against the dealings provided for in Article 101;



MARINERS LAW

5. If he has refused, obstructed or evaded the search or examination, or has refused to obey the orders of call, or has failed to make a statement, or has made a false statement, on the question of a Mariners' Labor Inspector provided in Article 107;
6. If he has failed to produce the books or documents provided for in Article 107, or has produced books or documents containing false entries, or has failed to make a report or has made a false report;
7. If he has contravened the provisions of Article 109;
8. If, in the case contemplated in Article 112 paragraph 1, he has filed a false complaint.

## Article 133

A person shall be liable to a fine not more than three thousand yen in any of the following cases:

1. If he has failed to call, for certification of the contract of engagement in contravention of Article 37;
2. If he has had the contract of engagement certified by fraud or by any other unlawful means;
3. If he has thrown away or destroyed his own mariner's pocket-ledger;
4. If he has contravened the ordinance issued under the provision of Article 50 paragraph 3;
5. If he has had his mariner's pocket-ledger granted, revised or rewritten by fraud or by any other unlawful means;
6. If he has used the mariner's pocket-ledger of some other person.

## Article 134

The provisions of this Chapter which are to be applied to masters shall be applied to persons who perform the duties of masters in their place.

## Article 135

If any representative, agent, employee or any other worker of a shipowner has, in respect of the business of the shipowner, acted in contravention of the provisions of Articles 129 to 131 inclusive, Article 132 items 1 to 3 inclusive and 6 or Article 133 items 1 and 2, the fine provided for in the articles referred to shall be imposed upon the said shipowner in addition to the punishment meted out to the actual offender, except where the shipowner (or the representative in the case of a minor who does not have the same competency as an adult or of an incompetent; the same applying correspondingly to the following paragraphs of this Article) has taken necessary measures for the prevention of such contravention.



MARINERS LAW

If, in the case contemplated in the preceding paragraph, a shipowner has, in spite of his knowledge of the project for contravention, failed to take any necessary measures for the prevention thereof, or has failed, in spite of his knowledge of the act of contravention, to take necessary measures for the correction thereof or has instigated the contravention, the shipowner also shall be punished as an actual offender.

If the representative, agent, employee or any other worker of the association provided for in Article 97 paragraph 3 has acted in contravention of the provisions of Article 132, items 1 to 3 inclusive the provisions of the two preceding paragraph shall be applied with necessary modifications.

## SUPPLEMENTARY PROVISIONS

## Article 136

This Law except the provisions of Chapter X shall come into force as from the date of its promulgation. The date of enforcement of the provisions under Chapter X shall be designated by ordinance.

## Article 137

The Small-type Vessel Crew's Pocket-Ledger Law shall be repealed.

## Article 138

The provisions of the proviso of Article 68 paragraph 3 of the former Mariners Law shall still be effective even after the enforcement of this Law.

## Article 139

The provisions of the former Law shall be applied to matters which have occurred prior to the enforcement of this Law.

## Article 140

The provisions of Article 18 shall not be applied to vessels of less than 20 gross tons or to those navigating within smooth water areas, for the period of six months from the date of enforcement of this Law.

## Article 141

Such contracts of engagement of the persons who serve on board the vessels provided for in the preceding article as are existent at the time of enforcement of this Law, shall be deemed to have been concluded at that time, in respect of the application of the provisions of Article 37.

## Article 142

The provisions of Articles 60 to 70 inclusive shall not be applied to those wartime standard vessels which the competent authorities have designated, with the resolution of the Mariners' Labor Committee, as not having sufficient accommodation to satisfy the minimum requirements as to manning provided for in Article 69.



MARINERS LAW

## Article 143

The provisions of Article 83 shall not be applied to vessels navigating within partially smooth water areas, for the period of six months from the date of enforcement of this Law.

## Article 144

When a young person under fifteen years of age is to be employed as a mariner, or a young person under eighteen years of age is to be employed as a seaman who engages in carrying coal or in stoking, in continuation of their employment before the enforcement of this law, the provision of Article 85 shall not be applied to them for the period of six months from the date of enforcement of this Law.

## Article 145

The provisions of Article 67 paragraph 3, Articles 97 and 113 shall not be applied for the period of six months from the date of enforcement of this Law.

## Article 146

The following partial amendments shall be made in the Commercial Code:

Article 708 shall be deleted.

Article 709. The master shall keep on board the vessel the inventory of the ship's appurtenances and the documents relating to contracts of carriage.

It may be provided by ordinance in respect of a vessel which is not a foreign going vessel that the inventory of the ship's appurtenances mentioned in the preceding paragraph need not be kept on board.

Article 710 shall be deleted.

Article 711 shall be deleted.

The provisions of Articles 708 to 711 inclusive shall still be effective in cases where the applications of those provisions are necessary in connection with the application of other laws and ordinances.

## Article 147

The following partial amendments shall be made in the Law Concerning the Enforcement of the Commercial Code;

In Article 122 the term "the Minister of Communications" shall be revised to "the Minister of Transportation."

Article 130: The form of the inventory of the ship's appurtenances shall be fixed by the Minister of Transportation.



MARINERS LAWAPPENDED LIST

Degree of physical breakdown	Number of Months
The First Degree	48 months
The Second Degree	42 "
The Third Degree	39 "
The Fourth Degree	35 "
The Fifth Degree	33 "
The Sixth Degree	30 "
The Seventh Degree	25 "
The Eighth Degree	20 "
The Ninth Degree	15 "
The Tenth Degree	12 "
The Eleventh Degree	9 "
The Twelfth Degree	6 "
The Thirteenth Degree	4 "
The Fourteenth Degree	2 "



STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : JMA

DATE: October 21, 1948

FROM : MG *mg*

SUBJECT: Attached Tokyo's 655

*Desp.*  
*894 85/10-448 Conf. File*

In view of its bearing on the current Japanese shipping controversy, I think you will be particularly interested in this despatch on Japan's need for overseas merchant marine.

Referring to the proposed FEC policy on the subject of Japanese shipbuilding and shipping approved by Committee No. 2, USPOLAD states that the FEC-proposed 1,800,000 gross ton level would be totally inadequate for meeting Japan's internal water transportation needs and fishing, cannery and whaling requirements, not to mention the establishment of an overseas merchant marine. USPOLAD estimates that, exclusive of fishing vessels, Japan will require a total of 4,000,000 tons of merchant shipping to meet its minimum requirements, of which about 2,500,000 tons would be for overseas services.

In defending these figures USPOLAD advances a number of pertinent arguments, some of which, I believe, have not been previously developed: (1) An estimate has been made in ESS that the landed cost of imported raw materials in Japan is increased by an average of at least 30% due to freight charges. Therefore, Japan's economic rehabilitation will depend in part upon the revival of a Japanese overseas merchant marine through which shipping costs can be met with Japanese yen and an opportunity provided to acquire foreign exchange through the export of shipping services. (2) At present, Japan is selling a number of items in world markets, not because the price is lower or the quality higher, but because earlier delivery dates can be quoted in Japan. The effect of increased costs of raw materials will be to increase the need for Japan to maintain lower shipping costs. (3) Bulk cargoes, such as coal, ore and lumber, which moved within Japan by water before the War, and was transferred during the War necessarily by rail shipment, should now be carried by coast-wise shipping. This would relieve a greatly overburdened rail system. For this purpose Japan requires at least 500,000 tons more of operable coast-wise and inter-island shipping. (4) While a merchant marine is admittedly an indispensable adjunct of military power, without armed forces of any kind it can hardly be a potential military menace. The Scandinavian countries, for example, have large merchant marines and they certainly do not constitute a military menace.

MG:clh

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STANDARD FORM NO. 64

*Office Memorandum* • UNITED STATES GOVERNMENT

TO : T: Mr. Garrison Norton  
TRC: Mr. Walter A. Radius *coll* DATE: September 22, 1948

FROM : TRC/S: J. E. Saugstad *JES*

SUBJECT: Request for Action on Department's Position with Respect to Japanese Shipping Program.

On September 9 the American Marine Hull Insurance Syndicate telephoned the Shipping Adviser of the Department to say they had received a cable asking them to quote hull coverage builders risk on 17 vessels to be built in Japan for foreign account. Shipbuilding yards and types were specified. The syndicate said it was interested in this business but had no information beyond the bare details of the cable inquiry. Their primary interest was in information regarding fire prevention and fighting equipment in the shipyards concerned. We provided them with as much information as was available and was unclassified.

TRC/S is in receipt of a copy of a petition dated September 22, 1948, filed by the National Federation of American Shipping with the War Department expressing concern over "reports which have reached them concerning the proposed action of restoring the Japanese merchant marine to a pre-war level of the years 1930-34." TRC/S has been asked by the President of the National Federation of American Shipping to arrange a hearing between Departmental officers responsible for participating in Japanese shipping decisions and members of the Federation.

It has also come to the attention of TRC/S that the Department is cooperating with the National Security Council on a paper for ultimate transmittal to the Far East Commission on the subject of the level of Japanese shipping.

The foregoing comprises three recent requests for information on a subject in which TRC/S has not participated in the formulation of Department policy up to this date.

Search for information on the subject reveals that the Department has participated in the SWNCC (now SANACC) decisions, largely through Mr. Saltzman's Office, information being forwarded to the Far East Commission and to SCAP. (See chronological development of policy attached).

Although shipping matters are comparatively important subjects in American foreign policy as evidenced by Congressional intervention in behalf of the American Merchant Marine, the Shipping Division or TRC/S have not been in consultation with anyone in the Department on the subject of the rehabilitation of Japanese shipping and

shipbuilding

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shipbuilding; at no time in consultation with the Maritime Commission on the subject; at no time in consultation with the Shipping Coordinating Committee (the appropriate intergovernmental body for establishing a United States shipping position); and at no time in consultation with the National Federation of American Shipping on the subject.

Inquiry has been made of the Maritime Commission as to whether the Commission has been in consultation with the Department of the Army or with the NFAS about the subject. The Commission asserts that there has been no consultation with either interest, but that the National Federation wrote the Commission August 25, 1948 inquiring as to what the Commission knows of plans. The Commission replied orally to the NFAS to the effect that it had no knowledge of SCAP's plans.

#### Documentary Review

An analysis of the documents in the Department's files indicates a steady upward push on SCAP objectives for establishing Japanese shipbuilding capacity in relation to reparations. This of course will be reflected in an upward push on the total size of the Japanese merchant marine.

There has been no established ceiling for the overall Japanese fleet, but SCAP and other objectives have tended to rise from 3 million gross registered tons to 4 million grt. This includes coastal, nearseas, and overseas operations in terms of steel ships only - not including wood ships.

In 1934 the total Japanese fleet was about 4 million gross tons. In 1941 it reached a peak of about 6.5 million tons. At the close of the war it was depleted to 1.5 million tons. SCAP has recently indicated a preference for a minimum 5 million ton objective, though this has not been translated into official action.

Although no ceiling on the size of the overall fleet has ever been set by the Far Eastern Commission, the international organization responsible for such a determination, the annual steel shipbuilding capacity has been the subject of a Far Eastern Commission decision, and a ceiling of 150,000 tons of new shipping annually for servicing a merchant fleet of 3 million gross tons has been established. This ceiling was necessary for determining the available capacity for reparations claims. So far as the records indicate, this 150,000 gross tons ceiling is the only one ever established by the Far Eastern Commission. However, the complaints of the other governments on the Commission indicate a fear that SCAP has steadily exceeded this agreed decision.

Early



-3-

Early in 1948 the Overseas Consultants Inc. Report was submitted to the War Department. This was an industrial reparations survey of Japan that was requested by the War Department as a result of the SWNCC decision on the level of Japanese industry in connection with reparations. This important report recommended that Japan be allowed to retain new ship construction capacity of 400,000 tons annually for servicing a minimum aggregate tonnage of 4 million tons. In commenting on this document, SCAP recommended that "in order to be assured enough capacity to build up the Japanese merchant fleet to replace retirement tonnage of about 150,000 gross tons per year rather than 130,000 gross tons as estimated by the Overseas Consultants, and to provide for production of ships for export trade, it is recommended that capacity of at least 500,000 gross tons for merchant shipping rather than 400,000 gross tons for an annual new construction program as recommended by the Overseas Consultants, and 150,000 gross tons for ferries, fishing, and miscellaneous vessels should be retained in Japan."

In mid 1948, the Johnston Committee reported to the War Department. This was in response to a request by the War Department for another study on the economic position and prospects of Japan and Korea and measures required to improve them. Mr. Paul Hoffman was a member of this Committee. This Report encouraged the upbuilding of the Japanese merchant fleet by new construction and by bareboat chartering of available vessels. It recommended that Japan be permitted to build ships larger than 6,000 gross tons for both domestic and foreign account.

The concerted reason offered by SCAP, by the War Department, by the Overseas Consultants, and by the Johnston Committee for raising the level of Japanese shipbuilding and shipping has been that such an increase would reduce the cost of occupation to the American taxpayer. The objections of the foreign governments, and the American Shipping Industry have been based on security and competitive grounds.

#### Summary

In this memorandum TRC/S is not concerning itself with an apparent discrepancy between the Far Eastern Commission's decision and SCAP's objectives. The latter may be based on considerations of high strategy not known to this office. But TRC/S believes that all important aspects of the problem, and all the agencies of the government concerned with them, should have the appropriate consideration of those who formulate the United States position. TRC/S believes that important aspects of the problem have not been considered to date, among them the following:

1. During



- 4 -

1. During the war period and subsequently, competent spokesmen for the Maritime Commission and the War Shipping Administration made various public statements to the general effect that postwar ship operation and shipbuilding activities in Japan should be depressed or stopped and that American shipping should be encouraged to assume a large share of the work done by pre-war Japanese shipping.

2. The National Federation of American Shipping has filed formal notice of objection with the War Department, with copies to State, Navy, and the Maritime Commission. NFAS is opposed to proposed action of restoring the Japanese merchant marine to a pre-war level.

3. It is assumed that when the Congress again convenes, spokesmen for the American shipping industry will not fail to protest encouragement of Japanese shipping and shipbuilding expansion to and through Congressional sympathizers.

4. Shipping interests were effective in obtaining Congressional defeat of the Executive-sponsored ERP proposal to charter or sell U. S. government-owned ships to foreign interests. This action was supported by the Maritime Commission, shipowners, shipbuilders, and by both shipbuilding and seagoing labor. There is no reason to expect that these same forces will not join again in an effort to defeat the potential restoration of the Japanese fleet, and there is no reason to doubt that they will again be successful. The argument used in the case of the transfer of ships to Europe - namely that it would reduce the American taxpayer's burden - was cast aside by Congress as being of lesser importance than that of promoting the American Merchant Marine. The same argument used in the case of Japan - that the American taxpayer will benefit by the restoration of a controlled Japanese shipbuilding and merchant marine operation - could hardly hope to meet a better fate in the case of a defeated nation that it met in the case of liberated and Allied nations.

5. The Department, as a major participant in the formulation of policy for occupied areas, will have to share with the Department of the Army a Congressional accounting on this subject. At that time it will be assumed by the Congressional Committees interested in the American Merchant Marine that TRC/S, whose functions in the Department are to advise the Secretary of State on shipping matters, was responsible for advice leading to a policy of developing the Japanese shipbuilding industry as a saving to the American taxpayer, when it is established national policy that the protection and promotion of the American Merchant Marine is a higher consideration. It must be made crystal clear that up to this time responsibility for these matters was assumed elsewhere in the Department without reference to the Department's accumulated specialized knowledge on the subject.

6. It is




- 5 -

6. It is clear that whatever part of the Department is making decisions on shipping matters, it has a duty to the entire government to make sure that all the agencies concerned are given an opportunity to be heard. This clearly has not been done to date by the Maritime Commission's own statement to the NFAS that they have no knowledge of SCAP's plans. Normally the channel that would appropriately lend itself to the most expeditious formulation of a U. S. position on any phase of shipping policy would be the Shipping Coordinating Committee.

7. TRC/S is becoming increasingly aware of the dissatisfaction of other governments with the current shipbuilding and shipping policy pursued by SCAP for Japan. Such rumblings have been heard on the part of other members of the Far Eastern Commission, and by some not represented thereon. Specifically, the United Kingdom, the Netherlands, Australia, the Philippines and China have been heard from in this connection. Since TRC/S is backstopping the U. S. position in the Intergovernmental Maritime Consultative Organization, a specialized agency of the United Nations, where most of these protesting governments are represented, it is important that there be one American shipping policy for all intergovernmental organizations, rather than unrelated fragments of it that tend to contradict each other.

Mr. Frazer Bailey's request for a hearing for the American shipping industry precipitates the necessity for coordinating the Department's internal position on the Japanese shipping issue. We therefore hope that you will forward the attached memorandum to Mr. Saltzman, suggesting that in the event that there is a difference of opinion on either policy or procedure that a meeting be sought with Mr. Lovett on the subject. There is a certain urgency about the matter as we do not believe that we should hold Mr. Bailey's request too long without definite reply. It is recommended that copies of the memorandum to Mr. Saltzman be sent to Mr. George Kennan, to the Assistant Secretary of State for Economic Affairs (EO for the particular attention of the Division of Economic Property Policy (EP)); to the Assistant Secretary of State for Political Affairs (G) for the particular attention of Northeast Asian Affairs (NA).

Attachment

  
J. W. S.



TELEPHONE: EXECUTIVE 4650

CABLE: NAFAS

*[Handwritten initials]*

**NATIONAL FEDERATION OF AMERICAN SHIPPING, INC.**  
1809 G STREET, NORTHWEST  
WASHINGTON 6, D. C.

FRAZER A. BAILEY  
PRESIDENT  
SAMUEL D. SCHELL  
VICE-PRESIDENT  
JOHN B. FORD  
SECRETARY-TREASURER

September 22, 1948

ALFRED U. KREBS  
COUNSEL  
LAWRENCE A. OOSTERHOUS  
DIRECTOR OF RESEARCH  
JOHN FORNEY RUDY  
DIRECTOR OF PUBLIC RELATIONS  
W. BRUCE MACNAMEE  
EXECUTIVE ASSISTANT  
EDWARD C. PHILLIPS  
DIRECTOR OF TELECOMMUNICATIONS

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Files

Mr. Jesse E. Saugstad  
Shipping Division  
State Department  
Washington 25, D. C.

Dear Mr. Saugstad:

Industry members represented by this Federation are greatly concerned about reports which have reached them concerning the proposed action of restoring the Japanese merchant marine to a pre-war level of the years 1930-1934.

The undersigned has personally talked with Under Secretary Draper, and we have filed with the Army the enclosed petition representing the industry's views on this subject.

I thought you would be interested in having a copy.

Very truly yours,

*[Handwritten signature of Frazer A. Bailey]*

Frazer A. Bailey

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Enclosure  
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NATIONAL FEDERATION OF AMERICAN SHIPPING, INC.  
1809 G Street, Northwest  
Washington, D. C.

September 22, 1948

William H. Draper, Jr.  
Assistant Secretary of the Army  
Department of the Army  
Washington 25, D. C.

Subject: Japanese Merchant Marine

My dear Mr. Draper:

Referring to my letter of May 26; your response of June 1, and to our subsequent conversation with respect to postwar plans of Japanese merchant shipping,

As set forth in our letter of May 26, and as I stated to you at the time of our meeting, American steamship owners are considerably concerned about our national policy, and perhaps the matter of an international policy, respecting the future of Japanese shipping in the international trades. You were kind enough to advise me that no definite policy from a national standpoint had been decided upon, and you invited expressions from American steamship owners represented by this Federation concerning such a policy.

The purpose of this letter is to present such views as are presently in the minds of the American steamship owners we represent, comprising about two-thirds of all privately owned American flag ships.

We understand there is no certainty at the moment as to where the final decision will be reached, i. e., whether by the Department of the Army; the Supreme Commander of Allied Powers;



William H. Draper, Jr.

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September 22, 1948

the Far Eastern Commission; or some other American governmental or international tribunal. We also understand that if some agency other than the Department of the Army is to determine these questions you will advise us so that our representations may be made before the determinative body.

In the first instance, may we say that the interests we represent are not unmindful of the task which confronts the United States and/or the Allied Nations endeavoring to restore the Japanese national to a level of reasonable living standards and of reasonable economic stability. We are equally clear, however, that the effect of these efforts upon our own national economy and upon those of the Allied Nations cannot be ignored.

As stated to you, American shipping interests have no ambition to monopolize Pacific Ocean shipping. The United States has never attained a maritime position commensurate with its geographic and economic status, and as a leader in the United Nations Organization. No nation which has failed to maintain its flag upon the seas has long retained a position of influence and leadership in world affairs. History is replete with examples to the contrary.

The Congress of the United States in passing the Merchant Marine Act of 1936 stated it to be a national policy that the United States shall have a merchant marine to carry its domestic waterborne commerce, a substantial portion of its foreign commerce, and capable of serving as a naval and military auxiliary in time of war or national emergency.



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In implementing this national policy we envision a merchant fleet of modern combination and cargo vessels under the United States flag manned by American officers and seamen, transporting all of our domestic coastwise and intercoastal and territory commerce and at least one-half of our imports and exports, and backed by a fleet of modern passenger-carrying vessels providing transportation and communication between the United States and important world areas. This in effect is the target which is in the minds of certain American shipping interests and we believe of a substantial portion of the American public.

We submit that it is not an overambitious policy to envision such an American merchant fleet. The carriage of one-half of our own commerce is a goal which has not, however, been reached since the early Colonial days when our forebears exceeded this achievement by building and operating the finest type of vessels the world had theretofore known.

During the period prior to World War II the American Merchant Marine was transporting less than 30% of our own imports and exports. During the typical period 1930-1934, which apparently has been selected to measure the level of Japanese restoration, the Japanese merchant marine was transporting 65% of its farseas exports and imports, 92% of its nearseas and 100% of its domestic commerce. While contemplating the necessities of our erstwhile enemies and with every humane and compassionate feeling, it would seem to us paradoxical to elevate those who have recently been restrained by supreme military effort and who were important factors in disturbing the peace of the world to a position in world shipping relatively



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superior to that enjoyed by our own American ships prior to World War II, or in the foreseeable future.

We recognize your statement, Mr. Secretary, that strenuous measures will be necessary to restore to Japan reasonable living and economic standards. We suggest that it is not an easy accomplishment in other parts of the world. We suggest consideration as to whether we may with equity and justice, and at our expense, elevate the living standards of our recent enemies to a higher level than those of our allies in the same area during the same conflict.

There appears to be a misconception regarding the historical earnings of the Japanese merchant fleet. A Department of Commerce publication shows that in 1937 the ratio of Japan net shipping receipts to its exports was 4.7%. This is to be compared with the ratio of 36.5% for Norway; 24.1% for Greece; 13.4% for the United Kingdom; 9.2% for the Netherlands and 7.1% for Denmark. We use the year 1937 as the only record available to us. We assume it to be representative.

More important, however, is the ratio of Japanese net income from shipping to the total Japanese national income. The same source shows that net shipping income represented less than 1% of the total national income of Japan for the year 1937. To be exact, the figure is 0.7%. This may be compared with the shipping income ratio to national income of other maritime nations as follows: Norway 11.2%; Denmark 2.5%; Netherlands 2.4%; United Kingdom 1.3%; and Sweden 1.1%. It is, therefore, obvious that the item of net



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shipping income is not the proper approach to balancing the budget or increasing the living standards in Japan. It should be borne in mind that this result was obtained when Japan was carrying approximately 65% of her farseas import and export commerce. It would appear that a more feasible method would be to raise the general productivity of Japanese industries and that only a very small increase is necessary to accomplish the necessary result.

The balance of payments earnings from shipping as compiled by the Japanese Department of Finance in the period 1930-1934 averaged 119.26 million yen per annum. This is the equivalent of 42.81 million dollars per annum. Even this figure, as will be later shown, overstates the balance of payments earnings because of the unusual and incorrect method of reporting. Further it fails to take into account certain expenditures necessary to support shipping operations which must be made in foreign currencies.

As an example: Japan is almost entirely devoid of domestic fuel oil. When purchased in Japan by Japanese shipping, such expense has not been adjusted against the net balance-of-payment earnings from shipping. Obviously the expenses of acquiring such fuel oil abroad and importing it into Japan for the use of Japanese ships should be deducted against the balance of payments earnings from shipping.

In the past the Japanese have adopted a method of reporting balance of payments under which imports are valued CIF and exports are valued FAS--a procedure which distorts and overstates any balance of trade deficit by an amount equal to the total transportation charges on imports. This unusual procedure has resulted in errors



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by competent economists, including some who have made surveys for the Army. For a more complete study of what is termed the "chronic bias" in the Japanese balance of payments figures, we respectfully refer you to "The Industrialization of Japan and Manchukuo, 1930-1940", by Schumpeter, Allen, Gordon and Penrose, Pages 908 to 925.

The Japanese from the very beginning of their modern epoch offered Japanese shipping something more than the opportunity to compete in free trade with low cost labor. About sixteen years after Perry's second visit, the Mitsubishi Shipping Company was organized in 1870. Government subsidies of 250,000 yen per annum were then granted. Additional government subsidies were granted other shipping companies as they came into existence.

In 1896 the Japanese not only offered flat sum subsidies to operators of foreign routes but also formalized into legislation a plan for postal subventions and for shipbuilding subsidies in substantial amounts. The postal subventions and the shipping subsidies were continued to World War II. The shipbuilding subsidies were discontinued in 1918 but were again resumed in 1932. The Japanese also provided indirect subsidies for their shipping by subsidizing their steel industry to the extent that it produced steel for ships, and by relieving shipbuilding steel, shipbuilding tools, etc. from import duties. A detailed explanation of these subsidies may be found on pages 319 to 351 of Shipping and Shipbuilding Subsidies published in 1932 by the U. S. Department of Commerce.

The Japanese themselves do not estimate that they will need any large income from shipping to balance their economy in



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"1952". Their "Economic Rehabilitation Plan" has set exports of 1,646 million dollars and imports of 1,657 million dollars as the goal for the year "1952" even after the overstated method of valuing imports CIF. Their balance of trade deficit, although distorted by overstatement, is thus only 11 million dollars per annum, if their goals are reached.

Fearing the impression may prevail that the living standards presently prevailing in Japan are more sub-standard than actually exists, we feel it desirable to state a few high-light facts. The average daily caloric intake in rural areas exceeded 2250 calories per day in November 1947, and about 5% less for the 1947 annual average, according to the AP's Summation of Non-Military Activities in Japan for May 1948. According to the same source, the urban areas average was 2000 calories per day in the same month and averaged about 93% of that figure for the full year. This is to be compared with an average daily caloric intake prewar of approximately 2250 according to calculations of the Japanese and 2000 for 1940 and 1941 according to the calculations of the Medical Division of the U. S. Strategic Bombing Survey. Our information is that the caloric intake of Bizone Germany at the present time is between 2100 and 2300 calories per day and of France approximately 2700 calories per day, exclusive of alcoholic beverages. We consider this a most creditable showing by the authorities in the occupation areas.

The future position of Japan in world affairs and commerce cannot be foreseen. Japanese authorities assure us that no one in



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Japan expected the surrender to lead to a complete change in the form of Government. They expected a constitutional monarchy. It must be remembered that for more than 200 years prior to Commodore Perry's visit in 1853 Japan's foreign commerce had been strongly banned and the country had been living in a feudal state ruled over by the Tokugawa Shogunate. The Emperor's authority was so far eclipsed that the first American consul was ignorant of even the existence of such a personage for two years after his arrival.

With the coming of Perry and the restoration of the Meiji dynasty, Japan entered upon a new and entirely different phase of its development. Individual loyalty was transferred from the feudal lords to the emperor. The succeeding regime was under a type of monarchical control, and in a substantial degree industrial development was dominated by cartels or family group holdings, in which it is thought that the monarchy held financial interest. Through all these periods the individual was competely subservient to the State. Personal freedom and dignity were not part of the Japanese order.

We now come to a new epoch in Japan's history with the establishment of constitutional democratic government and the concept of human rights and liberty. No one can foresee how the Japanese people will react to their new environment. Past history and statistics of a completely different governmental and economic system provide no reliable guide. It would be a rash policy to use past milestones to measure future progress, and to plot a completely theoretical course under which Japanese agriculture, industry and commerce would develop.



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While the Japanese people must learn something of the meaning of retribution, and measures must also be adopted to prevent their again disturbing the peace of the world, every element of the American people favor a humane and realistic course under which by industry and intelligence they may regain a properly balanced position in world affairs with reasonable living standards. All this must, however, be accomplished with a full realization of its impact and effect upon our own financial and economic affairs. Sound judgment would dictate a cautious procedure.

To say in what industries and to what extent the new order in Japan is most adaptable, and would be most successful, appears precarious. Because the Japanese merchant marine of 1930-1934 consisted of about four million gross tons, to now accept as sound policy a recommendation advanced by certain survey authorities that a merchant marine of equal size should forthwith be provided, completely ignores the historical background and changed Japanese and world conditions, and goes far into the field of simple conjecture.

We suggest that there is no reliable information to indicate the size and volume of future Japanese exportable surpluses and that the statistical records of past production of factory, mines and agriculture furnish no reliable yardstick of the commodities and of the volume which may be available in the future for shipment overseas. Nor is there any dependable data as to what foreign markets are available if such production can be accomplished. To arbitrarily set up a Japanese shipping fleet of a given capacity with so little knowledge of the future industrial development of Japan would be an unwise course to pursue.



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The merchant marine policy should rather be integrated with the overall industrial development as it occurs, taking into account the many national and international complications. When the Far Eastern Commission on January 25, 1947 decided as a matter of policy that the peacetime standard of living of the Japanese people should be set at the level prevailing during the years 1930-1934, they specified that acceptance of this policy should not be interpreted to mean acceptance in advance of a specific level for any particular industry. There is some justification in selecting these years as the statistical record shows evidence that it was just prior to extraordinary expenditures for military purposes.

Japanese industries which must largely furnish export surpluses not only suffered by bombing and other war activities, but the sources of raw material and fuel with which to feed these industries have not been reestablished. Therefore if a fleet of four million gross tons (1.7 million in farseas trading carrying 65% of Japanese imports and exports) under conditions existing in 1930-1934 was sufficient to meet Japan's waterborne transportation needs, it would appear obvious that some lesser amount will suffice until Japanese export production has been restored and overseas markets developed.

Perhaps because shipping is in an exposed position and its activities are more visible, there is a tendency to resort to it as a means of supplying anything which is lacking in the make-up of economic problems. The effect upon our economy and the resulting effect upon our merchant marine appears to have been overlooked.



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The occupational forces in Japan who waited so long for United States merchant ships to bring them supplies and transportation when they were driving the Japanese from the territories which they had invaded, should be the first to recognize the vital necessity of maintaining an adequate active merchant marine fleet at all times.

It had not occurred to us until reading certain of the reports prepared for the Department of the Army, and made available for public information, that the Japanese merchant fleet of the future would be allowed to engage to a substantial degree in world trading. We had gained the impression that Japanese ships of the future would carry the domestic commerce of those islands and be an important factor in the short trades namely, between the homeland and Korea, Formosa, Philippines and the immediate Asiatic mainland. We thought there would be very careful restrictions against allowing Japanese tonnage in the long overseas routes to the Western Hemisphere and European destinations, and perhaps to some degree to S. E. Asia. The experiences of disturbing incidents caused by Japanese activities in foreign areas seemed to us to support logically such a viewpoint.

For the reasons we have endeavored to present, American steamship owners who are members of this Federation respectfully ask that recommendations which have been made for the immediate rebuilding of the Japanese merchant fleet to a level equal to that of 1930-1934, namely, approximately four million gross tons, be deferred until there is better evidence that such action would be in conformity with a sound national and international policy.



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Among the reasons why we believe such an increase in Japanese shipping at this time would be unsound, are the following:

1. We suggest that the peace of the world would best be served by a policy which restricts Japanese shipping primarily to the domestic Japanese trades and to service between Japan and nearby continental and island areas.
2. That Japanese shipping net income as represented by its ratio to net national income, plays a small part in the overall Japanese economy, representing less than 1%. Therefore, it is not an effective means of balancing Japanese finances or of raising living standards.
3. We question the justification of raising Japanese participation in international shipping to a relatively higher level than is enjoyed by the United States, particularly when such stimulation of Japanese economic recovery must be at our expense.
4. We question whether it is fair and just, at our expense, to improve the economic stability and living standards of our recent enemy to a point substantially superior to that of our recent allies in the same geographic area.
5. Due to complete changes in government, physical conditions and psychology, the past achievements and statistical records of Japan are not reliable guides to the future production, overseas commerce and finances of the nation. No one can foresee the future of Japanese industry as related to world trade. We suggest it would be incautious to provide Japan at this time with a merchant marine of a given capacity upon a purely conjectural theory that certain tonnages in imports and exports will develop. The general



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and gradual improvement of a cross-section of Japanese industry is a more logical approach and as has been shown will better provide the means of meeting any financial deficit.

6. Japanese shipping although built and operated by cheap labor has not been required by its government to compete upon a free trade basis in international commerce, but has been substantially subsidized. Japan has not followed the principle set down by the U. S. in the Merchant Marine Act of 1936 of making subsidy payments only in an amount which will offset the low wages and operating costs of competing foreign vessels thereby establishing a condition of economic parity in competition.

When the subject matter of this letter is considered by the Department of the Army, by the Far Eastern Commission or by other national or international agencies, this Federation will greatly appreciate the opportunity of presenting further considerations.

Very truly yours,

Frazer A. Bailey



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DEPARTMENT OF STATE  
**Memorandum of Conversation**

DATE: October 20, 1948  
(Meeting held 5:00 PM)

SUBJECT: U. S. Policy on Japanese Shipping

PARTICIPANTS: Mr. Saugstad - TRC/S  
Mr. Allison & Mr. Fearey - NA  
Mr. Barnett - OFD  
Mr. Smith - EP  
Mr. Keyes - O

COPIES TO: Participants

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Mr. Saugstad outlined the history and current problems in the general field of U.S. shipping, giving the points made in Mr. Norton's memorandum to Mr. Saltzman of October 12. He suggested the desirability of meeting with representatives of the American shipping interests in order to explain to them the present status of U. S. policy towards Japanese shipping and shipbuilding and the reasons for such policy. He pointed out that TRC might have to justify such policy before the American shipping interests and others and he would therefore like to have it clarified for Mr. Norton and his office.

Messrs. Allison and Barnett explained some of the developments in U.S. policy on this subject and considerations underlying them. Particular reference was made to negotiations between the State Department and the Army Department, in which the latter supported a higher shipbuilding capacity for Japan than the former, and Mr. Smith presented a letter on this point which he proposed that Mr. Saltzman dispatch to Mr. Draper.

It was agreed that Mr. Smith, in collaboration with Mr. Saugstad, would prepare a memorandum setting forth the history and present status of U.S. policy on this point. This would be discussed by the participants in this meeting with a view towards establishing a State Department position and with the further objective of holding a meeting with representatives of the American shipping interests. Meantime, it was agreed that Mr. Smith's proposed letter would be reviewed and presented to Mr. Saltzman for signature.

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THE FOREIGN SERVICE OF THE UNITED STATES OF AMERICA

ACTION is assigned to

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United States Political Adviser for Japan

Tokyo, October 4, 1948.

DIVISION OF NORTHEAST ASIAN AFFAIRS

OCT 15 1948

DEPARTMENT OF STATE

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1948 OCT 15 AM 9:35

No. 655

CONFIDENTIAL (FOR DEPT. USE ONLY)

Subject: Japan's Need for an Overseas Merchant Marine.

THE HONORABLE THE SECRETARY OF STATE, WASHINGTON.

Sir:

I have the honor to refer to this Mission's despatch No. 313 of May 29, 1948 on the subject of "Forwarding Study Regarding Japanese Shipping" and in that connection to indicate the views of this Mission concerning the re-establishment of a Japanese ocean-going merchant marine. Reference is also made to the proposed Far Eastern Commission policy on the subject of Japanese shipbuilding and shipping (SC 297/7 of August 5, 1948) approved by Committee No. 2: Economic and Financial Affairs, at its 125th meeting on July 29, 1948, and referred to the Steering Committee, which provides in part that "the Japanese merchant marine, fishing, whaling and cannery fleets should be reduced to an aggregate not exceeding 1,800,000 gross registered tons of which not more than 150,000 gross tons should be tankers and the surplus should be made available for reparations."

Effect of Freight Rates on Japan's Imported Raw Material Costs

Since Japan must import raw materials in order to export goods with which to acquire foreign exchange needed to meet the minimum requirements of its domestic economy, raw material costs are, and will be a major factor in the rehabilitation of Japan's economy and the eventual restoration of equilibrium to Japan's international balance of payments and its maintenance thereafter. As was indicated in the Johnston Committee Report, payment to non-Japanese shipping at present-day freight rates on the importation of essential raw materials is a large factor in Japan's foreign trade deficit. Shipping costs alone approximate 200 million dollars a year at present. As for the future, since approximately 20,000,000 tons of the 32,000,000 freight tons of needed imports projected for 1955 will have to be brought from distant points, freight charges in that year will amount to an estimated \$400,000,000 (on the basis of \$20.00 per ton average).

An estimate has been made in the Economic and Scientific Sec-

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Section of this Headquarters that the landed cost of imported raw materials is increased on an average by at least 30 per cent due to freight charges. By way of illustration, freight charges on U. S. and Hainan iron ore, costing about \$7.00 per ton, range from \$9.00 to \$11.00 per ton. From west coast ports, freight charges on U. S. and Canadian coking coal, costing approximately \$11.50 to \$12.50 per ton, amount to approximately \$10.00 to \$11.00 per ton. Freight charges on salt from the Red Sea area are approximately double the f.o.b. selling price. As a consequence, the economic rehabilitation of Japan will depend in part upon the revival of a Japanese overseas merchant marine whereby shipping costs can be met with Japanese yen and an opportunity provided to acquire foreign exchange through the export of shipping services. During the years 1930-1934 for example, net receipts from marine transportation almost equaled or exceeded the deficit in commodity trade created by an excess of imports over exports. Today, and in looking toward the future, a Japan limited geographically to the four main islands and dependent for its very existence upon foreign trade, must import more than ever before. In proportion to the anticipated larger unfavorable visible trade balance of the future, Japan's overseas merchant marine will have to earn a proportionately greater revenue through the sale of its services in world markets. If Japan has less to sell and more to buy in world markets, it must be permitted to reduce freight charges to a minimum through the utilization of its own shipping to the maximum extent possible, as well as be permitted to sell more in services.

#### Impact of Landed Raw Material Costs Upon Japan's Export Sales

The impact of landed raw material costs upon Japan's export sales will assume greater significance as world demand is brought into a more realistic adjustment with world supply. At present, Japan is selling a number of items in world markets not because the price is lower or the quality higher, but because earlier delivery dates can be quoted in Japan. In many instances, raw material and post-war labor costs will not permit Japan to sell goods of comparable quality at lower prices in world markets. The establishment of a commercial exchange rate will bring this particular problem more clearly into focus.

Steel pipe (oil casing) currently being produced in Japan is illustrative of this point. Landed raw material costs alone for one metric ton of oil pipe approximate \$123. This includes an estimated price f.o.b. Japan of \$29.29 for 1.8 metric tons of iron ore, \$68.75 for 2.5 metric tons of coking coal, \$21.70 for one metric ton of fuel oil, and \$3.20 for 0.04 metric ton of magnesia clinker, totalling an estimated \$122.85 to obtain the materials f.o.b. Japan required in the production of one metric ton of oil pipe.

By way of comparison, as of the date of the compilation of the foregoing figures, information available to this Headquarters indicated that the price f.o.b. Pittsburgh of 1.8 metric tons of iron ore approximated \$12.60, 2.5 metric tons of coking coal \$35.00, one metric ton of fuel oil \$9.30, and 0.04 metric tons of magnesia clinker \$1.60, totalling an estimated \$58.50 to obtain

the materials

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the materials f.o.b. Pittsburgh required in the production of one metric ton of oil pipe. The difference between the f.o.b. Japan price and the f.o.b. price on the aforementioned materials is \$64.35. The minimum floor price established by this Headquarters for the sale of the pipe under discussion was \$175.00. Negotiations between prospective buyers and the Japanese manufacturers resulted in the sale of the pipe at \$205.00 and \$225.00 (for better than 9mm thickness) per metric ton. At that time, information available to this Headquarters indicated that the unit price f.o.b. Pittsburgh of similar pipe approximated \$105.00. Although steel prices have increased 12 to 18 per cent in the United States recently, the f.o.b. Japan price is considerably higher than the f.o.b. Pittsburgh price but below the U. S. "gray-market" short-term delivery quotations (said to approximate \$350 per metric ton). In this connection, the major purchasers of the 10,000 metric tons of oil pipe, offered for sale, anticipate delivery between October 1948 and April 1949. It is of interest to note also that due to the high silicon content of the steel in question and the concomitant shortage of manganese in Japan, the pipe probably can not be welded but will have to be threaded making it less desirable for pipe line use in so far as the major purchaser, the Arabian-American Oil Company, is concerned.

#### Movement of Goods Purchased with U. S. Appropriated Funds

Not only would foreign routes shipping enable Japan to reduce its foreign exchange expenditures for essential raw materials procured with commercial account funds and to acquire foreign exchange through the sale of shipping services, but it could also be utilized to move a substantial part of the goods purchased with funds appropriated by the U. S. Government under the GARIOA and EROA programs. Supplies for rehabilitation and relief purposes purchased with GARIOA and EROA funds could be moved by Japanese shipping, if Japan were permitted to acquire such shipping, and the saving in dollar funds appropriated for the transportation of such goods (apart from such charges as for fuel, port services, and charterage) could be used to purchase additional items. This in turn would require a modification in the policy expressed in the enclosed copy of a telegram from this Headquarters to the U. S. Maritime Commission of September 13, 1948: "All cargo procured from United States appropriated funds for Japanese economy will be moved in United States flag vessels subject to availability."

#### Japan's Internal Water Transportation Needs, Exclusive of Fishing

This Mission is of the opinion that the proposed 1,800,000 gross ton level, referred to above, would not be sufficient to meet Japan's internal water transportation needs and fishing, whaling and cannery requirements, let alone permit the establishment of an overseas merchant marine.

Information available to this Mission indicates that Japan's present internal water transportation needs, exclusive of fishing requirements, can not be met adequately by its existing merchant fleet of some 1,350,000 gross tons (of which only about 1,000,000

gross tons

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gross tons are operable). SCAP and Japanese Government officials estimate that, exclusive of fishing vessels, Japan requires a minimum of 1,500,000 gross tons of operable coastwise and inter-island shipping to meet its internal water transportation needs. In this regard, consideration should be given to the present character of Japan's inland water shipping. Bulk cargoes, such as coal, ore, and lumber, which moved within Japan by water before the war, and which by necessity had to be moved by rail as the war progressed, are to a large extent still being carried by a greatly overburdened rail system. An early return to the pre-war practice of moving the majority of bulk cargoes inter-island by water is in the interest of Japan's domestic economy, although necessitating thereby an increase in Japan's coastwise shipping. The importance of shipping to Japan as a coastwise and inter-island means of communication and transportation should not be minimized, and we believe that the topographical characteristics of the Japanese islands dictate the maximum expansion of Japan's domestic shipping, consistent with economic considerations.

#### Japan's Fishing Fleet Requirements

Although the present Japanese fishing fleet of somewhere between 800,000 and 900,000 gross tons is considered adequate for current Japanese fishing operations within the area limitations prescribed, most agree, we believe, that it would not be sufficient for any appreciable expansion of fishing operations once the limitations imposed upon Japan's fishing area have been lifted. In this regard, Japan's ever-increasing need for food and for foreign-exchange-earning exportable seafood items can not be overlooked.

#### Japan's Estimated Minimum Merchant Fleet Requirements

Although a number of estimates have been made, in addition to those indicated above, with respect to the tonnage required to meet Japan's internal water transportation and fishing fleet needs, and although there are variations among them, the conclusion can be drawn that the 1,800,000 gross tons of shipping recommended by the Economic and Financial Affairs Committee, referred to above, would barely cover Japan's minimum or essential requirements in this regard. Such a level, if established, would almost entirely preclude the establishment of an effective overseas merchant marine. We consider the restoration of a Japanese overseas merchant marine one of several necessary prerequisites to the economic recovery of Japan. We estimate that, exclusive of fishing vessels, Japan will require a total of 4,000,000 gross tons of merchant shipping to meet its minimum requirements, of which, approximately 2,500,000 tons would be devoted to foreign routes shipping, together with adequate shipbuilding and repair facilities to maintain such a fleet. This Mission understands that the views of the Strike and Draper Missions with respect to the need for a merchant marine of the approximate size indicated above, including adequate tonnage for foreign routes shipping, are in accord with this estimate. It appears to us that Japan, to obtain initially merchant shipping for use on foreign routes, must be permitted to

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buy or



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October 4, 1948.

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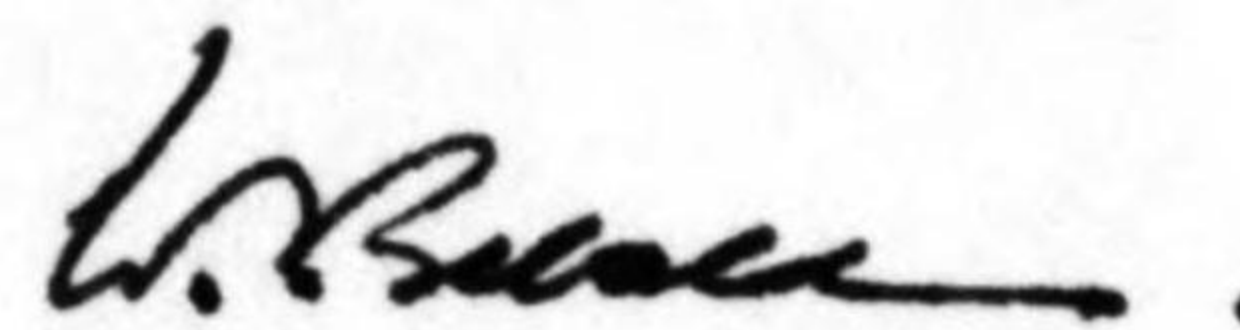
buy or charter on a bareboat basis surplus merchant shipping in world markets, as well as begin the construction of ships for such trade in its own shipyards.

Conclusion

Admittedly a merchant marine would be an indispensable adjunct to Japan as a military power. But a merchant marine alone, without armed forces of any kind, can hardly be considered a potential military menace to world peace. The Netherlands, Norway, Sweden, and Denmark, for example, with their relatively large merchant marines and small armed forces are illustrative of this point. A truly unarmed Japan with a merchant marine of sufficient size to fulfill its logical role as a maritime nation could no more be considered a menace to world peace than the aforementioned countries.

Japan, with every resource reduced but its population, and more dependent than ever before upon foreign trade for its survival, can only hope to attain self-sufficiency if needed raw materials can be obtained readily in world markets and carried to Japan at the lowest possible cost and concomitantly, if Japanese labor in turn is willing to earn through the "sweat of its brow", rather than through foreign subsidies, a higher standard of living and one that the Japanese economy can afford. If the competitive factor can be disassociated from a consideration of Japan's need for an overseas merchant marine, we doubt whether any justifiable case can be established for a long-range prohibition of a Japanese merchant marine of sufficient size to permit reasonable overseas operations.

Respectfully yours,

  
W. J. Sebald

Enclosure: *att*

Copy of telegram from GHQ, SCAP  
to U. S. Maritime Commission,  
dated September 13, 1948.

Original and hectograph to Department *Hand detached for D off Contrals*

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Enclosure to Despatch No. 655 dated October 4, 1948 from the United States Political Adviser for Japan, Tokyo, on the subject "Japan's Need for an Overseas Merchant Marine".

(COPY)

**GENERAL HEADQUARTERS  
SUPREME COMMANDER FOR THE ALLIED POWERS  
AND  
FAR EAST COMMAND**

**OUTGOING MESSAGE  
UNCLASSIFIED**

GD TR JAS/AIJ/mlc  
130905  
13 September 1948

**FROM: CINCPAC**  
**TO: US MARITIME COMMISSION, WASHINGTON, D.C...PRIORITY**  
**INFO: DEPT OF ARMY . . . . .PRIORITY**  
**CG EIGHTH ARMY . . . . .ROUTINE**

( ZX022764 ) For Admiral Smith. Rear commercial rad 3 September.

Reference 40,000 tons ore from West Coast, there was no stipulation in the contact requiring 50% participation by United States flag vessels, however, four of the six vessels employed in this lift were United States flag vessels.

The 400,000 tons of coking coal for Japan is being procured from SCAP commercial account funds on a CIF basis. It is expected that American flag ships will be as successful as they have been in the past due in part to the insufficiency of foreign ships to handle this amount of cargo. Bids were opened 7 September and you will be advised name of successful bidder soonest.

All cargo procured from United States appropriated funds for Japanese economy will be moved in United States flag vessels subject to availability. When procurement is made from SCAP commercial accounts every effort will be made to insure that United States vessels receive equal consideration in accordance with fair trade practices.

**OFFICIAL:**

**APPROVED:**

**R. M. LEVY  
Colonel, AGD  
Adjutant General**

**H. E. EASTWOOD  
Colonel, GSC  
Asst Chief of Staff, G-4**

Copies to: CinC, CS, Trans O, ESS/FT  
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STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : O - Mr. Saltzman

DATE: 10/15/48

FROM : EP - Mr. Smith

SECRET

SUBJECT: Request by the National Federation of American Shipping for Hearing on the Japanese Merchant Marine.

Mr. Norton's memorandum of October 12 on the above subject raises the question of coordination among all interested agencies of the U.S. Government of policy toward the Japanese merchant marine, with specific regard to coordination between O and T. EP agrees as to the desirability of such coordination and draws attention to the past history of intra-departmental and inter-agency consultations on the subject.

As noted in TRC/S' memorandum quoted by Mr. Norton, the development of postwar policy toward Japanese shipping goes back to the war period when "competent spokesmen for the Maritime Commission and the War Shipping Administration made various public statements to the general effect that postwar ship operation and shipbuilding activities in Japan should be depressed or stopped and that American shipping should be encouraged to assume a large share of the work done by pre-war Japanese shipping." I have no knowledge as to whether these statements were cleared in advance with those agencies, namely the State, Army and Navy Departments, which were ~~subsequently~~ charged with responsibility for development of U.S. policy for Japan under the occupation.

When U.S. policy for a retention level for Japanese shipping and shipbuilding was under development in 1946 and 1947, full consideration was given to two major factors: security, and the peaceful needs of the Japanese people. With regard to security, the Department ~~necessarily~~ depended fully on the views of the Army and Navy Departments. On the matter of the peaceful needs of Japan, it may be pointed out that the U.S. Government was bound by the provision of the Potsdam Declaration, which states that "Japan shall be permitted to maintain such industries as will sustain her economy." Full consultation among the Departments of State, Army, Navy, SCAP, the Pauley Mission and the Strike Mission, in the spring of 1947, determined the appropriate levels under these concepts, for shipbuilding capacity, as 150,000 gross tons annually, with a provision barring capacity for building individual vessels in excess of stated tonnage limits. It was agreed at the same time that the existing Japanese merchant fleet should be cut back to 2,000,000 gross tons, and that all vessels in excess of stated tonnage and speed limits should be removed. It was recognized,

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however, that the Japanese would subsequently need more than 2,000,000 gross tons of merchant shipping in order to meet their peaceful needs.

Mr. Deimel, TRC, in May, 1947, commented in a memo to Mr. Hodge, JK, on the U.S. policy outlined above, but only with reference to the possible diseconomy of restricting Japanese tankers to 3,000 lightweight tons or less.

*see  
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In October 1947, OE drafted a SWNCC paper proposing in effect that the U.S. renounce its interest in the nine vessels which would become available for reparations from Japan under U.S. policy toward the existing merchant fleet. SD cleared the proposed draft, provided the Maritime Commission concurred. OE consequently presented the matter to the Commission, together with the necessary background material, including the papers on U.S. policy regarding levels for Japanese shipping and shipbuilding. The Commission approved the draft SWNCC paper and made no comment regarding U.S. policy on shipbuilding capacity or the size of the merchant fleet.

In April 1948, after OGI had recommended a level of 400,000 gross tons for Japanese shipbuilding, Mr. Whitman, OE, sent a memorandum to Mr. Radius, TRC, informing him that (1) existing U.S. policy on Japanese shipping and shipbuilding was based on security considerations no longer considered valid; (2) that OE was then recommending a 300,000 gross ton capacity figure for shipbuilding with no removals to be made from the existing fleet; and (3) that Japan needs a merchant fleet of at least 3,000,000 gross tons to avoid a net loss on shipping account. To my knowledge, OE received no indication that TRC objected to the new proposal.

SCAP, since that time, has recommended a level of 500,000 gross tons for Japanese shipbuilding, and the Johnston Committee has proposed around 650,000 gross tons. Negotiations on the shipbuilding issue have, in recent months, been conducted at the Secretarial level between State and Army and under such a high security classification that it has been difficult at times for EP to keep its own staff informed. It has not been possible for EP, on its own authority, to seek the views of other divisions of the Department.

Since May of this year, when unofficial announcement was made in Japan regarding building of vessels for foreign account in Japan, considerable interest has been displayed in this matter by FEC

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countries and by U.S. shipping interests. The British Embassy presented a note on this matter which was answered by NA. The reply, I understand, was not cleared through TRC/S. EP has, however, provided TRC/S with all available information on the matter. In addition, Mr. Martin, ITP, in September, sent a memorandum to Mr. Radius, TRC, giving a full account of knowledge here regarding the program. A copy of this memorandum is attached. However, since SCAP takes the view that information on the subject is classified until contracts are actually let, and since contracts are still under negotiation for the bulk of the proposed program, it has not been possible to obtain unclassified information for the press and other interested parties. It will be noted that the pending contracts include two 18,000 deadweight ton tankers for the account of U.S. firms and that firm offers have been made by U.S. interests regarding an additional 635,000 deadweight tons of vessels, almost entirely tankers. **The contracts pending between SCAP and shipping interests of Norway, Denmark, the Philippines and France total more than 125,000 deadweight tons and their firm offers amount to approximately 500,000 deadweight tons more.**

Enclosure:

Copy of Memorandum

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10-15-48

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STANDARD FORM NO. 64

**Office Memorandum • UNITED STATES GOVERNMENT**

TO : O: Mr. Charles E. Saltzman

DATE: October 12, 1948

FROM : T: Garrison Norton

SUBJECT: Request by the National Federation of American Shipping for Hearing on the Japanese Merchant Marine.

The President of the National Federation of American Shipping has asked TRC/S to arrange a meeting with Departmental officers concerned with determination of a postwar level for Japanese shipbuilding and shipping.

The issue is stated in a petition filed by the NFAS with General Draper, War Department, September 22, 1948, on "The Japanese Merchant Marine." A copy is attached.

This request for a hearing precipitates the necessity for coordinating our respective offices on this issue before we talk individually or collectively with the industry.

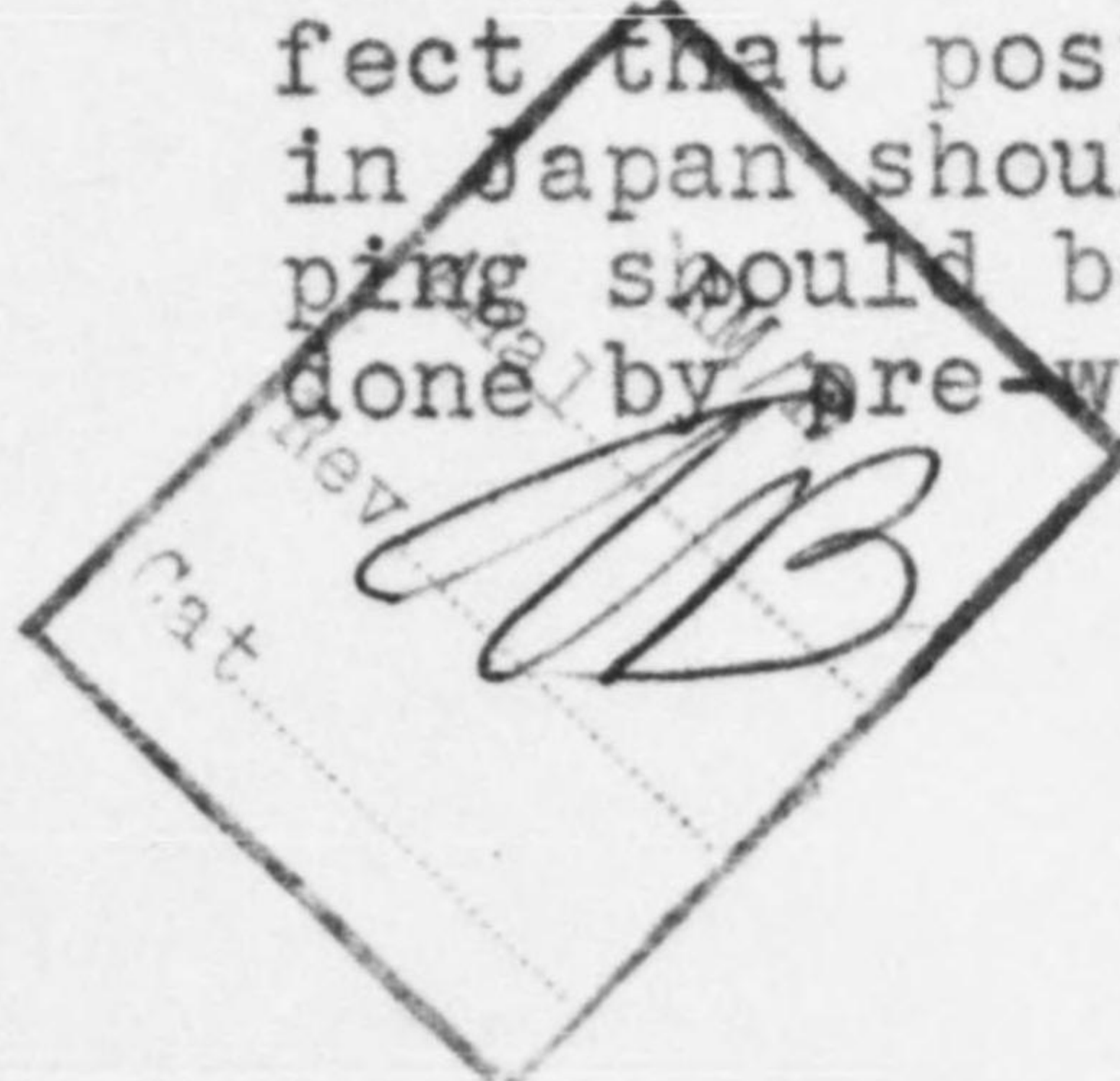
In the event that there are unresolved differences of opinion between our offices on the following points raised in a memorandum from TRC/S to me, I would like to suggest that we meet jointly with Mr. Lovett on the matter. There is a certain urgency about the matter as we do not believe that we should hold Mr. Bailey's request too long without arranging a definite meeting.

The pertinent points in TRC/S' memorandum are as follows:

"In this memorandum TRC/S is not concerning itself with an apparent discrepancy between the Far Eastern Commission's decision and SCAP's objectives. The latter may be based on considerations of high strategy not known to this office. But TRC/S believes that all important aspects of the problem, and all the agencies of the government concerned with them, should have the appropriate consideration of those who formulate the United States position. TRC/S believes that important aspects of the problem have not been considered to date, among them the following:

"1. During the war period and subsequently, competent spokesmen for the Maritime Commission and the War Shipping Administration made various public statements to the general effect that postwar ship operation and shipbuilding activities in Japan should be depressed or stopped and that American shipping should be encouraged to assume a large share of the work done by pre-war Japanese shipping.

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"2. The National Federation of American Shipping has filed formal notice of objection with the War Department, with copies to State, Navy, and the Maritime Commission. NFAS is opposed to proposed action of restoring the Japanese merchant marine to a pre-war level. *what would action?*

"3. It is assumed that when the Congress again convenes, spokesmen for the American shipping industry will not fail to protest encouragement of Japanese shipping and shipbuilding expansion to and through Congressional sympathizers.

"4. Shipping interests were effective in obtaining Congressional defeat of the Executive-sponsored ERP proposal to charter or sell U. S. government-owned ships to foreign interests. This action was supported by the Maritime Commission, shipowners, shipbuilders, and by both shipbuilding and seagoing labor. There is no reason to expect that these same forces will not join again in an effort to defeat the potential restoration of the Japanese fleet, and there is no reason to doubt that they will again be successful. The argument used in the case of the transfer of ships to Europe - namely that it would reduce the American taxpayer's burden - was cast aside by Congress as being of lesser importance than that of promoting the American Merchant Marine. The same argument used in the case of Japan - that the American taxpayer will benefit by the restoration of a controlled Japanese shipbuilding and merchant marine operation - could hardly hope to meet a better fate in the case of a defeated nation that it met in the case of liberated and Allied nations.

? | "5. The Department, as a major participant in the formulation of policy for occupied areas, will have to share with the Department of the Army a Congressional accounting on this subject. At that time it will be assumed by the Congressional Committees interested in the American Merchant Marine that TRC/S, whose functions in the Department are to advise the Secretary of State on shipping matters, was responsible for advice leading to a policy of developing the Japanese shipbuilding industry as a saving to the American taxpayer, when it is established national policy that the protection and promotion of the American Merchant Marine is a higher consideration. It must be made crystal clear that up to this time responsibility for these matters was assumed elsewhere in the Department without reference to the Department's accumulated specialized knowledge on the subject.

? | "6. It is clear that whatever part of the Department is making decisions on shipping matters, it has a duty to the entire government to make sure that all the agencies concerned are given an opportunity to be heard. This clearly has not been done to date by the Maritime Commission's own statement to the NFAS that they have no knowledge of SCAP's plans. Normally the channel that would appropriately lend itself to the most

expeditious



- 3 -

expeditious formulation of a U. S. position on any phase of shipping policy would be the Shipping Coordinating Committee.

"7. TRC/S is becoming increasingly aware of the dissatisfaction of other governments with the current shipbuilding and shipping policy pursued by SCAP for Japan. Such rumblings have been heard on the part of other members of the Far Eastern Commission, and by some not represented thereon. Specifically, the United Kingdom, the Netherlands, Australia, the Philippines and China have been heard from in this connection. Since TRC/S is backstopping the U. S. position in the Intergovernmental Maritime Consultative Organization, a specialized agency of the United Nations, where most of these protesting governments are represented, it is important that there be one American shipping policy for all intergovernmental organizations, rather than unrelated fragments of it that tend to contradict each other."

*Garrison Norton*  
Garrison Norton

Copies to: Mr. George Kennan - S/P  
Mr. Paul Nitze - E  
Mr. W. Walton Butterworth - FE



STANDARD FORM NO. 64

Office Memorandum • SECRET UNITED STATES GOVERNMENT

*per file*

TO : FE - Mr. Butterworth

*X P3*

DATE: October 19, 1948

FROM : NA - Mr. Allison

SUBJECT: Attached Memorandum Regarding Future Status of Japanese Merchant Marine

The attached copy of a memorandum from Mr. Norton to Mr. Saltzman regarding the interest of the National Federation of American Shipping in the determination of a post-war level for Japanese shipbuilding and shipping raises two questions, one of substance and one of procedure.

With regard to the substantive matter raised, Mr. Norton's office maintains that this Government is committed, as a result of statements made during the war and subsequently by the Maritime Commission and the War Shipping Administration to the policy that post-war ship operation and shipbuilding activities in Japan should be depressed or stopped and that American shipping should be encouraged to assume a large share of the work done by pre-war Japanese shipping. Mr. Norton's memorandum also points out that Congress has decided, in the case of a projected ERP plan to charter or sell US Government-owned ships to foreign interests, that it is more important to promote the American Merchant Marine than to reduce the burden on the American taxpayer which such a transfer of US-owned ships would effect. It is contended that the same argument would prevail in the case of Japanese shipping and that the policy of protecting and promoting the American Merchant Marine is of higher consideration than the possible saving to the American taxpayer from the development of the Japanese Merchant Marine.

With respect to the procedural matter, Mr. Norton's memorandum alleges that the responsibility for formulating US policy toward Japanese shipping has, up to the present, been assumed "elsewhere in the Department without reference to the Department's accumulated, specialized knowledge on the subject." It is also stated that "it is important that there be one American shipping policy for all intergovernmental organizations, rather than unrelated fragments of it that tend to contradict each other." Mr. Norton, therefore, requests that a meeting be set up in order to resolve differences of opinion between the various offices concerned and suggests that this meeting be held jointly with Mr. Lovett. He maintains there is a certain urgency about the matter in view of the request of the National Federation of American Shipping that it be consulted with regard to this matter before any final decisions are made.

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With regard to the substantive portions of Mr. Norton's memorandum, it is not necessary at this time to go into them in detail except to point out briefly the following factors:

1. Any artificial restriction placed upon the development of Japan's post-war shipping would be contrary to the established US policy that the victors in the late war should not use their positions to gain economic advantage over their former enemies. (The only reason for ignoring this principle would be in case US security might be threatened and in this instance the Navy has ruled that the revival of Japan's shipping and shipbuilding industries would not be a security threat to this country.)
2. According to a dispatch <sup>894.85/5-2948</sup> from USPOLAD, Tokyo, dated May 29, 1948, which enclosed a statement by the Japanese Ministry of Foreign Affairs on Japanese shipping, tonnage has dropped from a peak of 6,329,000 tons in 1941 to 1,540,000 tons at present; and approximately 66 per cent of the existing ships are of wartime design, considered inefficient and uneconomical by commercial standards, while the remainder have an average age of 22 years. It is evident, therefore, that it will be a considerable time before the Japanese are able, even under the most favorable circumstances, to rebuild their shipping to anywhere near its pre-war level, and that during this time American and other shipping industries will have an opportunity to consolidate their own positions in the Pacific maritime trade with little or no effective Japanese competition. It is also pointed out in the dispatch under reference that in the opinion of the Japanese Ministry of Foreign Affairs the provisions of the Seaman's Law, enacted in Japan in 1947, are even more favorable to the worker than those of the International Convention on Maritime Labor. If this is so, the fear of cheap Japanese labor competing with highly paid American seamen should not be the bogey it once was.
3. In the dispatch referred to it is stated that USPOLAD is now completing a definitive study of the problems connected with Japan's post-war Merchant Marine and shipbuilding industry and hopes shortly to forward it to Washington with appropriate recommendations. It is believed that no final decision should be made here on the matter until receipt of this report.

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With regard to the procedural question raised, I agree emphatically that all agencies of this Government should be agreed on shipping policy and particularly that all Divisions of the State Department concerned should reach a common ground. Whether or not Mr. Norton's office has been by-passed previously is impossible for me to say, but according to Mr. Burr Smith's memorandum to Mr. Saltzman on this subject (copy attached) it would appear that Mr. Norton's office has been given an opportunity to comment and has been kept informed of the thinking of the other branches of the Department on this subject. However, I believe that arrangements should be made in accordance with Mr. Norton's suggestion for an early thrashing out of the various points of view in the Department before taking the matter up with other agencies of the Government concerned or with the National Federation of American Shipping.

I therefore recommend that Mr. Saltzman be notified that NA will represent FE in any talks which Mr. Saltzman's office desires to arrange on this matter.

## Attachments:

1. Memo from Mr. Norton to Mr. Saltzman, October 12, 1948.
2. Memo from Mr. Smith to Mr. Saltzman, October 15, 1948.

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*u*

## Copies to:

O - Mr. Saltzman  
E - Mr. Nitze  
T - Mr. Norton  
S/P - Mr. Davies

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O - Mr. Saltzman

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10/15/48

EP - Mr. Smith

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Copy of Memorandum

OFD:EP:SKallis:mhn  
10-15-48**SECRET**



*FE - Mr. Butterworth*

O: Mr. Charles E. Saltzman

October 12, 1948

T: Garrison Norton

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"5. The Department, as a major participant in the formulation of policy for occupied areas, will have to share with the Department of the Army a Congressional accounting on this subject. At that time it will be assumed by the Congressional Committees interested in the American Merchant Marine that TRC/S, whose functions in the Department are to advise the Secretary of State on shipping matters, was responsible for advice leading to a policy of developing the Japanese shipbuilding industry as a saving to the American taxpayer, when it is established national policy that the protection and promotion of the American Merchant Marine is a higher consideration. It must be made crystal clear that up to this time responsibility for these matters was assumed elsewhere in the Department without reference to the Department's accumulated specialized knowledge on the subject.

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expeditious



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GARRISON NORTON

Garrison Norton

Copies to: Mr. George Kennan - S/P  
Mr. Paul Nitze - E  
Mr. W. Walton Butterworth - FE



NATIONAL FEDERATION OF AMERICAN SHIPPING, INC.  
1809 G Street, Northwest  
Washington, D. C.

September 22, 1948

William H. Draper, Jr.  
Assistant Secretary of the Army  
Department of the Army  
Washington 25, D. C.

Subject: Japanese Merchant Marine

My dear Mr. Draper:

Referring to my letter of May 26; your response of June 1, and to our subsequent conversation with respect to postwar plans of Japanese merchant shipping.

As set forth in our letter of May 26, and as I stated to you at the time of our meeting, American steamship owners are considerably concerned about our national policy, and perhaps the matter of an international policy, respecting the future of Japanese shipping in the international trades. You were kind enough to advise me that no definite policy from a national standpoint had been decided upon, and you invited expressions from American steamship owners represented by this Federation concerning such a policy.

The purpose of this letter is to present such views as are presently in the minds of the American steamship owners we represent, comprising about two-thirds of all privately owned American flag ships.

We understand there is no certainty at the moment as to where the final decision will be reached, i. e., whether by the Department of the Army; the Supreme Commander of Allied Powers;

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William H. Draper, Jr.

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September 22, 1948

the Far Eastern Commission; or some other American governmental or international tribunal. We also understand that if some agency other than the Department of the Army is to determine these questions you will advise us so that our representations may be made before the determinative body.

In the first instance, may we say that the interests we represent are not unmindful of the task which confronts the United States and/or the Allied Nations endeavoring to restore the Japanese national to a level of reasonable living standards and of reasonable economic stability. We are equally clear, however, that the effect of these efforts upon our own national economy and upon those of the Allied Nations cannot be ignored.

As stated to you, American shipping interests have no ambition to monopolize Pacific Ocean shipping. The United States has never attained a maritime position commensurate with its geographic and economic status, and as a leader in the United Nations Organization. No nation which has failed to maintain its flag upon the seas has long retained a position of influence and leadership in world affairs. History is replete with examples to the contrary.

The Congress of the United States in passing the Merchant Marine Act of 1936 stated it to be a national policy that the United States shall have a merchant marine to carry its domestic waterborne commerce, a substantial portion of its foreign commerce, and capable of serving as a naval and military auxiliary in time of war or national emergency.



William H. Draper, Jr.

- 3 -

September 22, 1948

In implementing this national policy we envision a merchant fleet of modern combination and cargo vessels under the United States flag manned by American officers and seamen, transporting all of our domestic coastwise and intercoastal and territory commerce and at least one-half of our imports and exports, and backed by a fleet of modern passenger-carrying vessels providing transportation and communication between the United States and important world areas. This in effect is the target which is in the minds of certain American shipping interests and we believe of a substantial portion of the American public.

We submit that it is not an overambitious policy to envision such an American merchant fleet. The carriage of one-half of our own commerce is a goal which has not, however, been reached since the early Colonial days when our forebears exceeded this achievement by building and operating the finest type of vessels the world had theretofore known.

During the period prior to World War II the American Merchant Marine was transporting less than 30% of our own imports and exports. During the typical period 1930-1934, which apparently has been selected to measure the level of Japanese restoration, the Japanese merchant marine was transporting 65% of its farseas exports and imports, 92% of its nearseas and 100% of its domestic commerce. While contemplating the necessities of our erstwhile enemies and with every humane and compassionate feeling, it would seem to us paradoxical to elevate those who have recently been restrained by supreme military effort and who were important factors in disturbing the peace of the world to a position in world shipping relatively



William H. Draper, Jr.

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September 22, 1948

superior to that enjoyed by our own American ships prior to World War II, or in the foreseeable future.

We recognize your statement, Mr. Secretary, that strenuous measures will be necessary to restore to Japan reasonable living and economic standards. We suggest that it is not an easy accomplishment in other parts of the world. We suggest consideration as to whether we may with equity and justice, and at our expense, elevate the living standards of our recent enemies to a higher level than those of our allies in the same area during the same conflict.

There appears to be a misconception regarding the historical earnings of the Japanese merchant fleet. A Department of Commerce publication shows that in 1937 the ratio of Japan net shipping receipts to its exports was 4.7%. This is to be compared with the ratio of 36.5% for Norway; 24.1% for Greece; 13.4% for the United Kingdom; 9.2% for the Netherlands and 7.1% for Denmark. We use the year 1937 as the only record available to us. We assume it to be representative.

More important, however, is the ratio of Japanese net income from shipping to the total Japanese national income. The same source shows that net shipping income represented less than 1% of the total national income of Japan for the year 1937. To be exact, the figure is 0.7%. This may be compared with the shipping income ratio to national income of other maritime nations as follows: Norway 11.2%; Denmark 2.5%; Netherlands 2.4%; United Kingdom 1.3%; and Sweden 1.1%. It is, therefore, obvious that the item of net



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shipping income is not the proper approach to balancing the budget or increasing the living standards in Japan. It should be borne in mind that this result was obtained when Japan was carrying approximately 65% of her farseas import and export commerce. It would appear that a more feasible method would be to raise the general productivity of Japanese industries and that only a very small increase is necessary to accomplish the necessary result.

The balance of payments earnings from shipping as compiled by the Japanese Department of Finance in the period 1930-1934 averaged 119.26 million yen per annum. This is the equivalent of 42.81 million dollars per annum. Even this figure, as will be later shown, overstates the balance of payments earnings because of the unusual and incorrect method of reporting. Further it fails to take into account certain expenditures necessary to support shipping operations which must be made in foreign currencies.

As an example: Japan is almost entirely devoid of domestic fuel oil. When purchased in Japan by Japanese shipping, such expense has not been adjusted against the net balance-of-payment earnings from shipping. Obviously the expenses of acquiring such fuel oil abroad and importing it into Japan for the use of Japanese ships should be deducted against the balance of payments earnings from shipping.

In the past the Japanese have adopted a method of reporting balance of payments under which imports are valued CIF and exports are valued FAS--a procedure which distorts and overstates any balance of trade deficit by an amount equal to the total transportation charges on imports. This unusual procedure has resulted in errors



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by competent economists, including some who have made surveys for the Army. For a more complete study of what is termed the "chronic bias" in the Japanese balance of payments figures, we respectfully refer you to "The Industrialization of Japan and Manchukuo, 1930-1940", by Schumpeter, Allen, Gordon and Penrose, Pages 908 to 925.

The Japanese from the very beginning of their modern epoch offered Japanese shipping something more than the opportunity to compete in free trade with low cost labor. About sixteen years after Perry's second visit, the Mitsubishi Shipping Company was organized in 1870. Government subsidies of 250,000 yen per annum were then granted. Additional government subsidies were granted other shipping companies as they came into existence.

In 1896 the Japanese not only offered flat sum subsidies to operators of foreign routes but also formalized into legislation a plan for postal subventions and for shipbuilding subsidies in substantial amounts. The postal subventions and the shipping subsidies were continued to World War II. The shipbuilding subsidies were discontinued in 1918 but were again resumed in 1932. The Japanese also provided indirect subsidies for their shipping by subsidizing their steel industry to the extent that it produced steel for ships, and by relieving shipbuilding steel, shipbuilding tools, etc. from import duties. A detailed explanation of these subsidies may be found on pages 319 to 351 of Shipping and Shipbuilding Subsidies published in 1932 by the U. S. Department of Commerce.

The Japanese themselves do not estimate that they will need any large income from shipping to balance their economy in



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"1952". Their "Economic Rehabilitation Plan" has set exports of 1,646 million dollars and imports of 1,657 million dollars as the goal for the year "1952" even after the overstated method of valuing imports CIF. Their balance of trade deficit, although distorted by overstatement, is thus only 11 million dollars per annum, if their goals are reached.

Fearing the impression may prevail that the living standards presently prevailing in Japan are more sub-standard than actually exists, we feel it desirable to state a few high-light facts. The average daily caloric intake in rural areas exceeded 2250 calories per day in November 1947, and about 5% less for the 1947 annual average, according to SCAP's Summation of Non-Military Activities in Japan for May 1948. According to the same source, the urban areas average was 2000 calories per day in the same month and averaged about 93% of that figure for the full year. This is to be compared with an average daily caloric intake prewar of approximately 2250 according to calculations of the Japanese and 2000 for 1940 and 1941 according to the calculations of the Medical Division of the U. S. Strategic Bombing Survey. Our information is that the caloric intake of Bizone Germany at the present time is between 2100 and 2300 calories per day and of France approximately 2700 calories per day, exclusive of alcoholic beverages. We consider this a most creditable showing by the authorities in the occupation areas.

The future position of Japan in world affairs and commerce cannot be foreseen. Japanese authorities assure us that no one in



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Japan expected the surrender to lead to a complete change in the form of Government. They expected a constitutional monarchy. It must be remembered that for more than 200 years prior to Commodore Perry's visit in 1853 Japan's foreign commerce had been strongly banned and the country had been living in a feudal state ruled over by the Tokugawa Shogunate. The Emperor's authority was so far eclipsed that the first American consul was ignorant of even the existence of such a personage for two years after his arrival.

With the coming of Perry and the restoration of the Meiji dynasty, Japan entered upon a new and entirely different phase of its development. Individual loyalty was transferred from the feudal lords to the emperor. The succeeding regime was under a type of monarchical control, and in a substantial degree industrial development was dominated by cartels or family group holdings, in which it is thought that the monarchy held financial interest. Through all these periods the individual was completely subservient to the State. Personal freedom and dignity were not part of the Japanese order.

We now come to a new epoch in Japan's history with the establishment of constitutional democratic government and the concept of human rights and liberty. No one can foresee how the Japanese people will react to their new environment. Past history and statistics of a completely different governmental and economic system provide no reliable guide. It would be a rash policy to use past milestones to measure future progress, and to plot a completely theoretical course under which Japanese agriculture, industry and commerce would develop.



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While the Japanese people must learn something of the meaning of retribution, and measures must also be adopted to prevent their again disturbing the peace of the world, every element of the American people favor a humane and realistic course under which by industry and intelligence they may regain a properly balanced position in world affairs with reasonable living standards. All this must, however, be accomplished with a full realization of its impact and effect upon our own financial and economic affairs. Sound judgment would dictate a cautious procedure.

To say in what industries and to what extent the new order in Japan is most adaptable, and would be most successful, appears precarious. Because the Japanese merchant marine of 1930-1934 consisted of about four million gross tons, to now accept as sound policy a recommendation advanced by certain survey authorities that a merchant marine of equal size should forthwith be provided, completely ignores the historical background and changed Japanese and world conditions, and goes far into the field of simple conjecture.

We suggest that there is no reliable information to indicate the size and volume of future Japanese exportable surpluses and that the statistical records of past production of factory, mines and agriculture furnish no reliable yardstick of the commodities and of the volume which may be available in the future for shipment overseas. Nor is there any dependable data as to what foreign markets are available if such production can be accomplished. To arbitrarily set up a Japanese shipping fleet of a given capacity with so little knowledge of the future industrial development of Japan would be an unwise course to pursue.



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The merchant marine policy should rather be integrated with the overall industrial development as it occurs, taking into account the many national and international complications. When the Far Eastern Commission on January 25, 1947 decided as a matter of policy that the peacetime standard of living of the Japanese people should be set at the level prevailing during the years 1930-1934, they specified that acceptance of this policy should not be interpreted to mean acceptance in advance of a specific level for any particular industry. There is some justification in selecting these years as the statistical record shows evidence that it was just prior to extraordinary expenditures for military purposes.

Japanese industries which must largely furnish export surpluses not only suffered by bombing and other war activities, but the sources of raw material and fuel with which to feed these industries have not been reestablished. Therefore if a fleet of four million gross tons (1.7 million in farseas trading carrying 65% of Japanese imports and exports) under conditions existing in 1930-1934 was sufficient to meet Japan's waterborne transportation needs, it would appear obvious that some lesser amount will suffice until Japanese export production has been restored and overseas markets developed.

Perhaps because shipping is in an exposed position and its activities are more visible, there is a tendency to resort to it as a means of supplying anything which is lacking in the make-up of economic problems. The effect upon our economy and the resulting effect upon our merchant marine appears to have been overlooked.



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The occupational forces in Japan who waited so long for United States merchant ships to bring them supplies and transportation when they were driving the Japanese from the territories which they had invaded, should be the first to recognize the vital necessity of maintaining an adequate active merchant marine fleet at all times.

It had not occurred to us until reading certain of the reports prepared for the Department of the Army, and made available for public information, that the Japanese merchant fleet of the future would be allowed to engage to a substantial degree in world trading. We had gained the impression that Japanese ships of the future would carry the domestic commerce of those islands and be an important factor in the short trades namely, between the homeland and Korea, Formosa, Philippines and the immediate Asiatic mainland. We thought there would be very careful restrictions against allowing Japanese tonnage in the long overseas routes to the Western Hemisphere and European destinations, and perhaps to some degree to S. E. Asia. The experiences of disturbing incidents caused by Japanese activities in foreign areas seemed to us to support logically such a viewpoint.

For the reasons we have endeavored to present, American steamship owners who are members of this Federation respectfully ask that recommendations which have been made for the immediate rebuilding of the Japanese merchant fleet to a level equal to that of 1930-1934, namely, approximately four million gross tons, be deferred until there is better evidence that such action would be in conformity with a sound national and international policy.



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Among the reasons why we believe such an increase in Japanese shipping at this time would be unsound, are the following:

1. We suggest that the peace of the world would best be served by a policy which restricts Japanese shipping primarily to the domestic Japanese trades and to service between Japan and nearby continental and island areas.

2. That Japanese shipping net income as represented by its ratio to net national income, plays a small part in the overall Japanese economy, representing less than 1%. Therefore, it is not an effective means of balancing Japanese finances or of raising living standards.

3. We question the justification of raising Japanese participation in international shipping to a relatively higher level than is enjoyed by the United States, particularly when such stimulation of Japanese economic recovery must be at our expense.

4. We question whether it is fair and just, at our expense, to improve the economic stability and living standards of our recent enemy to a point substantially superior to that of our recent allies in the same geographic area.

5. Due to complete changes in government, physical conditions and psychology, the past achievements and statistical records of Japan are not reliable guides to the future production, overseas commerce and finances of the nation. No one can foresee the future of Japanese industry as related to world trade. We suggest it would be incautious to provide Japan at this time with a merchant marine of a given capacity upon a purely conjectural theory that certain tonnages in imports and exports will develop. The general